

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

In the Matter of the Claim of	}	
	}	
	}	
DHIMITRAQ KRISTAQ ALEKO	}	Claim No. ALB-029
	}	
	}	Decision No. ALB-242(R)
	}	
	}	
Against the Government of Albania	}	

AMENDED PROPOSED DECISION

This claim against the Government of Albania is based upon the confiscation of real property located in the vicinity of Vithkuq, in the District of Korce.

In a Proposed Decision issued on January 28, 1997, which became final on March 25, 1997, the Commission denied this claim against the Government of Albania because it was not established either that the claimant was living in the United States on April 18, 1995, or that the claim was owned by someone living in the United States for at least half the time between April 18, 1995, and the date the claim arose, as required in the Agreed Minute to the U.S.-Albania Claims Settlement Agreement. *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").

Subsequently, by letters dated May 1, 1997 and June 1, 1997, claimant sought to object to the denial of his claim. By Commission letter dated June 17, 1997, claimant was advised that the decision had already become final, and that because there appeared to be no basis upon which to re-open the file, the Commission would take no further action on his claim.

On May 30, 2006, the Commission notified the claimant that in a Diplomatic Note dated April 27, 2006, the Albanian Minister of Foreign Affairs had advised the United States Embassy in Albania that it accepted and agreed with a proposal made by the United States Government on November 18, 2005, to delete the residency requirement from the Agreed Minute to the Settlement Agreement.

As a result of this modification of the Settlement Agreement, the Commission reviewed claimant's file again and requested certain additional information and documentation from the claimant in support of the claim for confiscation of the subject property, which is said to have taken place in 1945. By letter dated June 10, 2006, the claimant submitted additional documentation including additional ownership documents in support of the claim.

The Commission has carefully reviewed the record before it, including the recent submissions. From this review, it appears that claimant, a United States national by birth, originally sought compensation for two parcels of property (.077 hectares and .09 hectares, respectively) said to have been expropriated by the Albanian government in December 1976.* At that time, according to the claimant, he was the owner of the properties, having inherited the first property from his father's mother, Kostandina Jani Aleko, and a 75 percent share of the second property from his father's father, Alex Phillip Katundi (also known as Aleks Katundi).

With regard to the ownership of these properties, however, research conducted by the Commission's independent consultant in Albania, who has searched the Regional Cadastral Archives for the village of Vithkuq, has disclosed no registrations of properties in the name of Aleks Katundi, claimant's grandfather, or in the name of his grandmother, Kostandina Aleko. Copies of "Vertetim Negativ" (Certificates of Non-ownership) to this effect were sent to the claimant on December 4, 2006 for his information and explanation.

*As more fully discussed on page 4 of this Amended Proposed Decision, claimant now only seeks compensation for the property that was owned by his grandfather.

By letter dated January 4, 2007, claimant acknowledged that his grandmother “was not an American citizen,” and stated in that correspondence that he would accordingly “claim for the compensation of the terrain of her house at the Local Agency for the Land Compensation at the city of Korce.” He further stated that he now only seeks “compensation for the land of my grandfather’s house situated in the village...”

In light of this correspondence from the claimant, the Commission again asked its independent consultant in Albania to further research the ownership of the above property. The consultant has reported back that he made the necessary verifications in the cadastral registers of the village of Vithkuq, but that he could find no registrations in the name of Aleks Filip Katundi. While the Commission does not doubt the authenticity of the attestation of the village elders, the Commission finds that this document is legally insufficient to document the ownership of the properties at issue. Provided that the claimant has sufficient documents to prove his title in the local courts, he should first pursue the court process and procedures to obtain a legally sufficient document of ownership. This he has not done so far.

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)(2006).

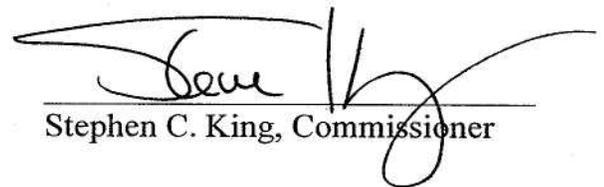
In view of the above-discussed lack of evidence of ownership, the Commission is constrained to find that the claimant has not met the burden of proof in establishing that the property for which he has claimed, was owned either by his grandfather or by him at the time of confiscation. Accordingly, his claim must again be and is hereby denied.

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

MAR 29 2007



Mauricio J. Tamargo, Chairman



Stephen C. King, 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) (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 Agreed Minute to the Settlement Agreement further provides:

For purposes of article 1, the term "United States nationals" shall include dual United States-Albanian nationals only if those nationals are domiciled in the United States currently or for at least half the period of time between when the property was taken and the date of entry into force of the agreement.

In effect, this residency requirement limits the Commission's jurisdiction over the claims of dual nationals to those cases where the owner of the claim either (1) was domiciled in the United States on April 18, 1995 (the effective date of the Settlement Agreement), or (2) was domiciled in the United States for at least half

the period of time between the date the property was expropriated and April 18, 1995.

Claimant here, assertedly a United States national by birth, seeks compensation for two parcels of property (.077 hectares and .09 hectares, respectively) said to have been expropriated by the Albanian government in December 1976. At that time, according to claimant, he was the owner of the property.

Unfortunately, the information provided by claimant to date is not sufficient to establish his right to compensation. It appears that claimant is a dual U.S.-Albanian national, because his father was an Albanian citizen by birth. Under Albanian law, claimant retains his Albanian nationality even if he is also a U.S. national by birth.

Assuming that claimant is a dual United States-Albanian national, the Commission is constrained to apply the residency requirement in the Agreed Minute to the Settlement Agreement. However, there is no indication that claimant has ever lived in the United States.

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) (1995).

The Commission finds that claimant here has not met the burden of proof in that he has failed to provide information to establish either that he lived in the United States on April 18, 1995, or for at least half the time between December 1976 and April 18, 1995. In the absence of such evidence, the Commission is unable to find that the residency requirement in the Agreed Minute to the Settlement Agreement is satisfied.

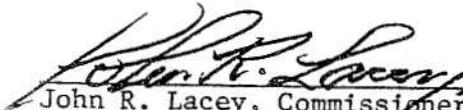
Accordingly, while the Commission sympathizes with claimant for the loss of his property, it cannot find -- on the evidence submitted to date -- that this claim is compensable under the terms of the Settlement Agreement. The claim therefore must be and is hereby denied.

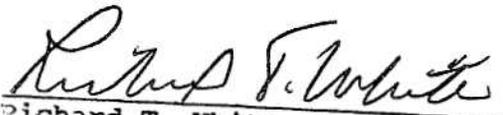
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

JAN 28 1997


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner


Richard T. White, Commissioner

This decision was entered as the Commission's
Final Decision on MAR 25 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).