

In the Matter of the Claim of

Claim No. ALB-120

Decision No. ALB-110

By Proposed Decision entered on March 4, 1996, the Commission denied this claim on the ground that the claimant had failed to establish that the property which is the subject of the claim, which was said to have been located in the village of Salari, District of Tepelene, was owned by a national of the United States when it was allegedly confiscated.

By letter received on March 25, 1996, the claimant stated objection to the Commission's decision. He contends that as a citizen of the United States, he and others like him, as a matter of "justice," should be considered eligible under the Settlement Agreement regardless of when they acquired their United States citizenship.

By Commission letter dated March 29, 1996, the claimant was urged to provide any further evidence which would enable the Commission to reach a more favorable result in his case. At the same time, he was advised once again that claims are compensable under the U.S.-Albanian claims Settlement Agreement only if the property at issue was owned by a United States national at the time of confiscation. As an alternative, the claimant was also encouraged to pursue a claim for compensation, restitution or other remedy under the domestic restitution and compensation procedures available in Albania. To date, no further communication has been received from the claimant.

The Commission has carefully considered claimant's statement of objection and has again reviewed the entire record in this claim, including claimant's confirmation that, at the time the property in question was taken by the Albanian government, it was not owned by a national of the United States. As such, there is no basis on which to change the result reached in the

Commission's Proposed Decision in this claim. Accordingly, the denial set forth in the Proposed Decision of March 4, 1996 must be and it is hereby affirmed.

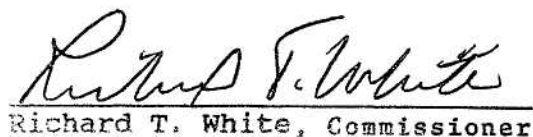
This constitutes the Commission's final determination in this claim.

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


Delissa A. Ridgway, Chair

JAN 28 1997


John R. Lacey, Commissioner


Richard T. White, Commissioner

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

In the Matter of the Claim of

HITO HITAJ

Against the Government of Albania

Claim No. ALB-120

Decision No. ALB-110

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real and personal property located in Tepelena.

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) (1994).

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 has stated that the property which is the subject of his claim was confiscated by the Albanian government in 1946-47. At that time, according to claimant, the property was owned by his father, an Albanian citizen.

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 international law, which this Commission has applied without exception, that a claim may be found 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).

The Commission finds that, at the time the property in question was assertedly taken by the Albanian government, it was not owned by a national of the United States. 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.

MAR 04 1996


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner


Richard T. White, 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. 531.5 (e) and (g) (1994).