

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

In the Matter of the Claim of	}	
	}	
	}	
VAIOS P. KARAGIANNIS	}	Claim No. ALB-122
	}	
	}	Decision No. ALB-111
	}	
Against the Government of Albania	}	
	}	
Counsel for Claimant:	}	Thomas Karagiannis, Esquire

Hearing on the record held on April 15, 1997

FINAL DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real, personal and business property located in Leskovik in the District of Kolonje.

The Commission's Proposed Decision, entered on November 18, 1996, denied this claim for lack of evidence that claimant's father (said to have been the owner of the properties at issue) was a national of the United States at the time of the alleged confiscation in 1943.

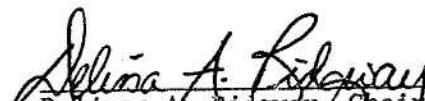
Claimant's son's letter of December 9, 1996, stated objection to the Commission's Proposed Decision. The Commission responded by letter dated December 20, 1996, and urged the claimant to provide any further evidence

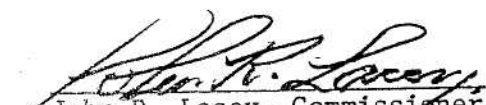
which would enable it to reach a more favorable result in his case. At the same time, however, he was advised once again that claims are compensable under the U.S.-Albanian Claims Settlement Agreement only if the property at issue was owned by a United States national at the time of confiscation. On December 23, 1996, the Commission received a copy of claimant's Certificate of Naturalization which establishes that the claimant acquired United States nationality by naturalization on October 5, 1967. No other documentary evidence has been submitted.

Because claimant has not requested an oral hearing, the Commission issues this Final Decision based on its de novo review of the evidence in the record. The Commission has carefully considered claimant's statement of objection and has again reviewed the entire record in this claim. However, the Commission must conclude that there is no basis on which to change the result reached in the Commission's Proposed Decision. Accordingly, the denial set forth in the Proposed Decision of November 18, 1996 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.

APR 15 1997


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner

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In the Matter of the Claim of

VAIOS P. KARAGIANNIS

Against the Government of Albania

Claim No. ALB-122

Decision No. ALB-111

Counsel for Claimant:

Thomas Karagiannis, Esquire

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real, personal and business property located in Leskovik, District of Kolonje.

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 1943. According to claimant, the property was owned by his father, Pantelis Karagiannis. The claimant has not stated whether his father was a United States national at the time of confiscation; nor has he indicated his father's date of death. The claimant has stated that he acquired United States nationality by naturalization in 1967. In support of this assertion, he has submitted a copy of his United States passport issued in 1994.

By letter dated December 4, 1995, the claimant was advised that for a claim to be eligible under the Settlement Agreement, the confiscated property upon which the claim is based must have been owned by a United States national at the time the property was taken. The claimant was also advised that the claim for the loss must have been continuously held by one or more United States nationals from the date of the confiscation until April 18, 1995, the effective date of the Settlement Agreement.

By letter dated March 1, 1996, the claimant's attorney requested more time to provide evidence in support of the claim and stated a request under the Freedom of Information Act for "all government documents released as related to foreign claims settlements." In response, by letter dated March 8, 1996, the Commission granted an extension of time until May 1, 1996, enclosed copies of two decisions of the Commission in the Albanian claims program regarding the requirement of United States nationality, and also responded to the Freedom of Information Act request.

By letter dated April 18, 1996, the claimant's attorney submitted certain documents in Turkish purporting to establish the ownership of the claimed property by claimant's father. The Commission by letter dated June 6, 1996, again requested some evidence of United States nationality of the property's

owner at the time of confiscation, but no substantive evidence has been submitted to date.

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).

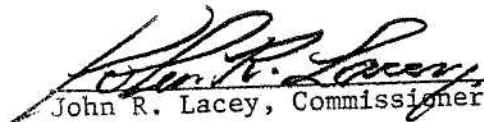
The Commission finds that there is no evidence that, at the time the property in question was assertedly taken by the Albanian government, it was owned by a national of the United States. Accordingly, while the Commission sympathizes with the claimant for the loss of his family's property, it cannot conclude that his 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.

NOV 18 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) (1995).