

**FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20579**

In the Matter of the Claim of	}	
	}	
	}	
	}	
NIKO KONOMI	}	Claim No. ALB-352
	}	
	}	Decision No. ALB-334
	}	
Against the Government of Albania	}	
	}	

Oral Hearing held on May 7, 2024

FINAL DECISION

Claimant objects to the Commission’s Proposed Decision denying his claim against the Government of Albania for the alleged confiscation of real property located in the village of Dhermi, commune of Vuno, sub-prefecture of Himare. The Proposed Decision denied the claim on the ground that Claimant had failed to provide evidence sufficient to establish that the properties at issue were owned by a U.S. national at the time of confiscation. Specifically, Claimant had asserted that, at the time of the alleged taking, the properties were owned by his grandfather, who was not a U.S. national. On objection, Claimant again acknowledges that his grandfather was only an Albanian citizen and was the sole owner of the properties in question at the time of confiscation. However, he argues that the Commission should nevertheless issue an award in this claim, in part because his aunt acquired U.S. citizenship in the 1930s. After carefully considering Claimant’s objection, along with all of his arguments and evidence, including testimony adduced at

the oral hearing and newly submitted documentation, we again deny Claimant's claim for the same reason stated in the Proposed Decision. We thus affirm the denial of this claim.

BACKGROUND

Claimant brought this claim against Albania alleging that the various properties that are the subject of his claim were confiscated by the Albanian government in 1945 and 1957, at which time the properties were owned by Claimant's grandfather, Thoma Dhiseo Konomi. Claimant stated that he inherited the properties through his father, Odhisea Thoma Konomi, and that interests in the claim are currently held by himself as well as his mother (now deceased) and three siblings. He indicated in his claim form that all of these individuals (other than himself) are Albanian citizens and has not alleged that any of them are dual Albanian-U.S. nationals. Claimant himself did not acquire U.S. nationality until November 12, 1998, nearly three years after the effective date of the settlement agreement between the United States and Albania. *See Agreement Between the Government of the United States and the Government of the Republic of Albania on the Settlement of Certain Outstanding Claims*, Mar. 10, 1995, T.I.A.S. No. 12,611 (entered into force Apr. 18, 1995) ("Settlement Agreement").

By Proposed Decision entered on November 16, 2022 ("Proposed Decision"),¹ the Commission denied this claim on the ground that the Claimant had not met his burden of proof to provide evidence sufficient to establish that the property that is the subject of the claim was owned by a U.S. national at the time of confiscation.² Specifically, the Commission determined that, at the time of the alleged confiscation, the properties in question were owned by Claimant's grandfather, Thoma Dhiseo Konomi, who was an

¹ Claim No. ALB-352, Decision No. ALB-334 (2022) (Proposed Decision).

² *See id.* at 3.

Albanian citizen. No evidence was presented that Thoma Konomi was also a U.S. national. The Commission therefore concluded that the claim was not compensable because it did not come within the terms of the Settlement Agreement.³

By letter dated December 5, 2022, Claimant disputed the basis for the Proposed Decision, but did not clearly state that he wished to object to the decision. The Commission sent a letter to Claimant on December 21, 2022, requesting that he clarify whether he wished to file an objection, and in a January 19, 2023 response, Claimant filed a formal objection to the Proposed Decision and requested an oral hearing. Following a series of postponements made at Claimant's request, the oral hearing was scheduled for May 7, 2024. The Claimant was given a deadline of April 23, 2024, for the submission of "[a]ny further written statement, brief or documentary evidence" he wished to submit. No further evidence, however, was submitted by that date.

The oral hearing was held as scheduled, during which Claimant presented his own testimony, as well as the testimony of two other individuals—Niko Minella Gioni and Thodhori Spiro Gioni. Both witnesses are family friends who were born and raised in Dhermi, the village where the alleged taking took place. During the hearing, Claimant again asserted that the Albanian government had taken property from his family in 1945 and 1957, at which times his grandfather had been the owner of the properties. Claimant had no evidence or knowledge of anybody other than his grandfather having ownership interests in the properties at the time they were taken. He also acknowledged that his grandfather was not a U.S. national at the time of the alleged confiscation. The two witnesses confirmed Thoma Dhiseo Konomi's ownership of the properties in question and presented no contrary testimony concerning his nationality at the time the property was

³ See *id.*

taken. Claimant presented additional documentary evidence during the oral hearing as well, but nothing contained in those documents establishes that Claimant's grandfather was a U.S. national at the time of expropriation.

As the Commission stated in its Proposed Decision, "[i]t is a well-established principle of the law of international claims, which has been applied by both this Commission and its predecessors, the War Claims Commission and the International Claims Commission, that a claim may be found compensable only if the property that forms the basis of the claim was owned by a U.S. national at the time the property was confiscated, expropriated, or otherwise taken."⁴ Claimant has acknowledged that his grandfather, who owned the properties in question, was not a U.S. national at the time the properties were alleged to have been taken. The claim therefore does not come within the Commission's jurisdiction under the terms of the Settlement Agreement.

Claimant asserted during the hearing that his aunt (his grandfather's daughter) married a U.S. citizen and came to the United States in 1935, obtaining U.S. citizenship herself in 1938 or 1939. He appears to argue that, because there was a U.S. national in the family at the time of taking, the claim should be found to have satisfied the requirement of U.S. nationality. There is no evidence, however, that Claimant's aunt held any interest in the properties at issue at the time of the alleged confiscation. Thus, even if she had held an interest in the claim as a U.S. national after Thoma Konomi's death in 1957—potentially passing on her interest to Claimant after her own death in 2000—it would not affect the outcome of this claim, since the claim was not held by a U.S. national at its inception.

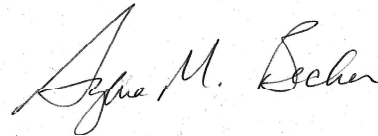
⁴ *Id.* at 2 (citations omitted); *see also Claim of HARIKLIA ZOTO*, Claim No. ALB-178, Dec. No. ALB-200, at 3 (1996) (Proposed Decision).

Accordingly, while the Commission sympathizes with the Claimant for the loss of his family's property, it cannot find that this claim is compensable under the terms of the Settlement Agreement. The Commission therefore affirms its denial of this claim.

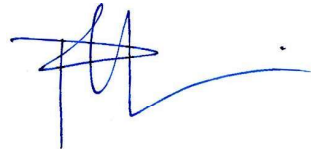
CONCLUSION

In sum, for the reasons discussed above and in the Proposed Decision, and based on the evidence and information submitted in this claim, the Commission concludes that the denial of this claim set forth in the Proposed Decision must be and is hereby affirmed. This constitutes the Commission's final determination in these claims.

Dated at Washington, DC, July 10, 2024
and entered as the Final Decision
of the Commission.

A handwritten signature in black ink, appearing to read "Sylvia M. Becker", written over a horizontal line.

Sylvia M. Becker, Commissioner

A handwritten signature in blue ink, appearing to read "Patrick Hovakimian", written over a horizontal line.

Patrick Hovakimian, Commissioner

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In the Matter of the Claim of

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Claim No. ALB-352

Decision No. ALB-334

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property located in the village of Dhermi, commune of Vuno, sub-prefecture of Himare.

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 a final decision with respect to any claim of . . . any national of the United States . . . included within the terms of any claims agreement concluded on or after March 10, 1954, 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)(1)(B) (2018).

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*, Mar. 10, 1995, T.I.A.S. No. 12,611 (entered into force Apr. 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, and 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 asserts that the properties that are the subject of his claim were confiscated by the Albanian government in 1945 and 1957, and that the properties were owned by his grandfather, Thoma Dhiseo Konomi, at the time of confiscation. The Claimant states that Thoma Dhiseo Konomi was an Albanian citizen when the properties were taken.

It is a well-established principle of the law of international claims, which has been applied by both this Commission and its predecessors, the War Claims Commission and the International Claims Commission, that a claim may be found compensable only if the property that forms the basis of the claim was owned by a U.S. national at the time the property was confiscated, expropriated, or otherwise taken. *See, e.g., Claim of THE ESTATE OF JOSEPH KREN, DECEASED against Yugoslavia, Claim No. Y-0660, Decision No. Y-1171 (1954); Claim of ILONA CZIKE against Hungary, Claim No. HUNG-2-0784, Decision No. HUNG-2-191 (1976); and Claim of JOSEPH REISS against the German Democratic Republic, Claim No. G-2853, Decision No. G-2499 (1981).* Congress has explicitly 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. Czechoslovakian Claims Settlement Act of 1981, Pub. L. No. 97-127, § 6(a)(2)(B), 95 Stat. 1675, 1677 (1981).

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.

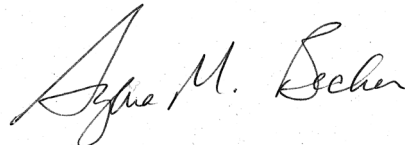
45 C.F.R. § 509.5(b)(2021).

The Claimant has not met his burden of proof to provide evidence sufficient to establish that the property that is the subject of his claim was owned by a U.S. national at the time of confiscation.

Indeed, Claimant's own Statement of Claim form indicates that at the time of the alleged confiscation, the owner of the property was not a U.S. national. Under the terms of the Settlement Agreement, this claim thus is not compensable.

Accordingly, the claim must be and is hereby denied.

Dated at Washington, DC, November 16, 2022
and entered as the Proposed Decision
of the Commission.



Sylvia M. Becker, Commissioner



Patrick Hovakimian, 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), (g) (2021).