

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

In the Matter of the Claim of

ELIAS KALYVAS

Against the Government of Albania

Counsel for Claimant:

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Claim No. ALB-124

Decision No. ALB-106

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 and personal property located in Shore (Skore), District of Gjirokaster.

The Commission's Proposed Decision, entered on November 18, 1996, denied this claim for lack of evidence that claimant's parents, Sophocles and Athina Kalyvas (said to have been the owners of the properties at issue), were nationals of the United States at the time of the confiscation in 1965.

By letter dated December 9, 1996, claimant's representative, Thomas Karagiannis, stated objection to the Commission's Proposed Decision and submitted a copy of claimant's Certificate of Naturalization which establishes that

the claimant acquired United States nationality by naturalization on June 16, 1959. The Commission replied 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 January 22, 1997, the Commission received copies of three agreements purportedly signed in 1945 by claimant's mother, Athena (Athina) Kalyvas. Those agreements indicate that claimant's mother may have owned certain property which she leased to others on a yearly basis. No other documentary evidence has been submitted.

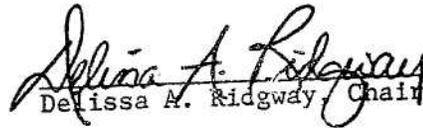
Because claimant has not requested an oral hearing, the Commission issues this Final Decision based on its de novo review of the evidence in the record. The Commission has carefully considered claimant's statement of objection and has again reviewed the entire record in this claim. The Commission again notes, however, that no evidence of the United States nationality of Athena Kalyvas or Sophocles Kalyvas has been submitted, nor has the claimant submitted any evidence that he owned an interest in the claimed property at the time of the alleged confiscation. As such, there is no basis on

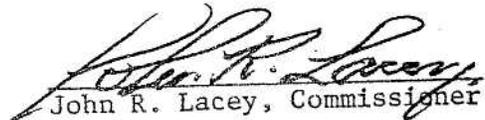
which to change the result reached in the Commission's Proposed Decision in this claim.

Accordingly, the denial set forth in the Proposed Decision of 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

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 asserted that the property which is the subject of his claim was confiscated by the Albanian government in 1965. At that time, according to claimant, the property was owned by Sophocles and Athina Kalyvas, both of whom were then Albanian citizens. The claimant has asserted that he acquired United States nationality by naturalization in 1951 but has not submitted any evidence to substantiate that statement.

By letter dated December 4, 1995, the claimant was advised that in order to qualify for compensation under the Settlement Agreement, the confiscated property upon which a claim is based must have been owned by a United States

national at the time the property was taken. The claimant did not respond to this letter. Nor has he responded to a letter from the Commission of June 6, 1996 requesting evidence of ownership of the claimed property and the owner's 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 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).

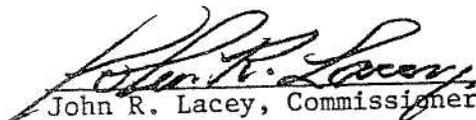
The Commission finds that, at the time the property on which this claim is based was assertedly taken by the Albanian government, the property was not owned by a national of the United States. Accordingly, the Commission must conclude that claimant's claim is not compensable under the terms of the Settlement Agreement. The claim therefore must be and is hereby denied.

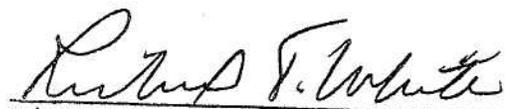
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

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).