

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, a resident alien in the United States, has stated that the property which is the subject of her claim was confiscated by the Albanian government in 1946 and 1949. At that time, according to the claimant, the property was owned by her father-in-law, Ibrahim E. Topalli, an Albanian citizen.

There are two problems with this claim. First, the scope of the Settlement Agreement is expressly limited to "United States nationals." As a resident alien, the claimant here is not a "United States national" as that term is used in the Settlement Agreement.

Second, 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 notes that in the related claim of Ismet Topalli, Claim No. ALB-143, Mr. Topalli has stated that his father, Ibrahim Emin Topalli, was a United States citizen but no evidence to that effect has been submitted.

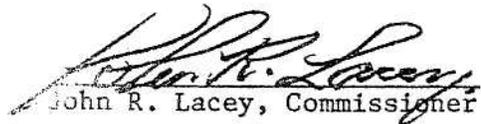
The Commission finds that there is no evidence that, at the time the property in question was assertedly taken by the Albanian government, it was owned by a national of the United States. The Commission further finds that the claimant here is not a United States national within the meaning of the Settlement Agreement. Accordingly, while the Commission sympathizes with the claimant for the loss of her family's property, it must conclude that her 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.

JUL 01 1996


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner


Edward T. White, Commissioner

This decision was entered as the Commission's
Final Decision on **AUG 15 1996**

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).