

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 asserts that the property which is the subject of her claim and which was confiscated by the Albanian government was owned by her and her mother-in-law, Vasilò Minka. The claimant also asserts that she acquired United States nationality by virtue of her father's naturalization in 1919, although she has submitted no evidence to support that statement, and she has not identified the nationality of her mother-in-law.

In support of her claim, claimant has submitted a "Property Certificate" which indicates that, as of 1945, her mother-in-law was the owner of certain property located in the village of Polene, District of Korçe. Evidence in the

record also indicates that claimant's husband, Rafail Minka, died in 1943; that her sister-in-law, Eleni Minka Zguro, died in 1957; and that her mother-in-law died in 1967. Claimant asserts that she is now the only heir to this property.

The claimant has not specifically stated when the property was confiscated. However, if the property was confiscated during the agrarian reform of 1945 and 1946, then the evidence indicates that the property was owned at that time by claimant's mother-in-law, who apparently was an Albanian national.

The ICOSA mandates that the Commission decide claims in accordance with, *inter alia*, "[t]he applicable principles of international law." ICOSA 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 claimant has not established that the property at issue in this claim was confiscated after 1967, and that she was one of her mother-in-law's heirs. Consequently, the Commission has no basis upon which to find that the property was confiscated at a time when the property was owned by a national of the United States.

To the extent that claimant inherited the property through her mother-in-law (which she has not established), the Commission lacks jurisdiction over this case *unless* her mother-in-law was a U.S. national. If the Commission lacks jurisdiction over all or any part of this case, claimant should be entitled to relief through the restitution and compensation program being administered by the Government of Albania (if it is not too late to file a claim there). Indeed, the Settlement Agreement between the U.S. and Albania requires that the Government of Albania afford such U.S. nationals the same rights that it affords Albanian nationals to pursue and receive compensation, restitution or any other

remedy available under the domestic restitution and compensation procedures established by that government.

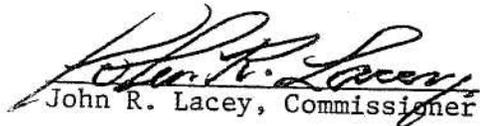
In any event, whether for lack of jurisdiction or for lack of evidence, the claim before this Commission must be and is hereby denied.

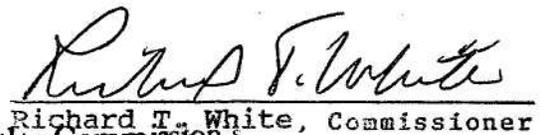
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

JAN 28 1997


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner


Richard T. White, Commissioner

This decision was entered as the Commission's
Final Decision on MAR 25 1997

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).