

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

In the Matter of the Claim of

RITA DETO SEFLA

Against the Government of Albania

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}
}
} Claim No. ALB-216

}
}
} Decision No. ALB-126

AMENDED PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real and personal property located in Lekdush and Tepelene.

The Commission's Proposed Decision, entered on May 7, 1996, denied the claim for lack of evidence that claimant's father and claimant's mother's parents (said to have then been the owners of the properties at issue) were nationals of the United States at the time of the confiscations. However, claimant has since submitted to the Commission copies of her parents' Certificates of Naturalization (reflecting her father's naturalization as a U.S. citizen in 1944 and her mother's naturalization in 1953) and the death certificates for her father (who died in 1954) and her mother (who died in 1992).

Unfortunately, these documents alone are not sufficient to substantiate claimant's claim. As explained in the Commission's June 18, 1996 letter to claimant, the evidence required to establish a compensable claim includes: evidence of claimant's own U.S. nationality (e.g., a copy of her birth certificate); copies of her parents' wills, or other proof of the number and identities of their heirs; documentation to establish the ownership of the property which is the subject of her claim; and some evidence of the dates and circumstances of the alleged confiscations. To date, claimant has supplied none of this required evidence.*

Section 531.6(d) of the Commission's regulations provides:

The claimant shall be the moving party, and shall have the burden of proof on all issues involved in the determination of his or her claim.

45 C.F.R. 531.6(d) (1995).

The Commission concludes that claimant here has failed to meet the burden of proof to establish her U.S. nationality, her right to claim for the property at issue, the ownership of the property which is the subject of her claim,

*The claim form indicates that some of the property at issue in this claim was owned at the time of confiscation by the parents of claimant's late mother. If indeed that is the case, claimant also must submit proof that her mother's parents were U.S. nationals at that time.

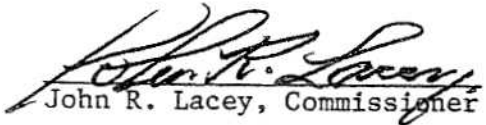
and the dates and circumstances of the alleged confiscations. Accordingly, while the Commission sympathizes with claimant for the loss of her family's properties, the claim must be and is hereby denied.

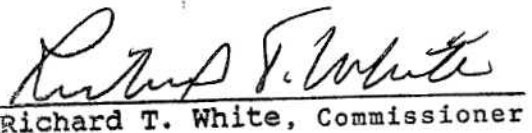
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

FEB 24 1997


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner


Richard T. White, Commissioner

This decision was entered as the Commission's
Final Decision on MAY 06 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).

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| In the Matter of the Claim of | } | |
| RITA DETO SEFLA | | Claim No. ALB-216 |
| Against the Government of Albania | | Decision No. ALB-126 |

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real and personal property located in Lekdush and Tepelene.

As a preliminary matter, it is noted that this claim was received by the Commission after the expiration of the December 29, 1995 deadline for submittal of claims. However, the Commission has decided to accept the claim for adjudication on the merits.

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 properties which are the subject of her claim were confiscated by the Albanian government at some unspecified time. The claimant asserts that the owners of the properties, Ibrahim Beqir and Shano Beqir Hajnaj, were both born in Albania. On the claim form and on a prior registration form, the claimant has indicated that Shano Beqir Hajnaj was an Albanian national. While the claim form is silent

as to Ibrahim Beqir's nationality, the registration form filed in January 1993 indicates that Ibrahim Beqir was also an Albanian national.

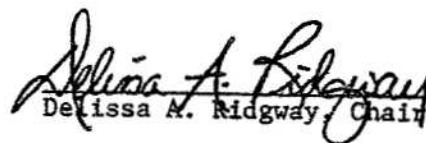
The ICSA mandates that the Commission decide claims in accordance with, *inter alia*, "[t]he applicable principles of international law." ICSA section 4(a)(2), 22 U.S.C. 1623(a)(2). It is a well-established principle of international law, which this Commission has applied without exception, that a claim 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 has reviewed the record in this case, and concludes that the evidence and information submitted is insufficient to support a finding that, at the time the properties in question were assertedly taken by the

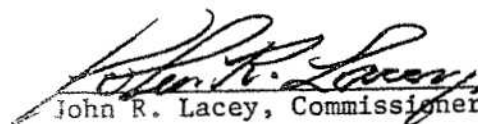
Albanian government, they were owned by a national of the United States. Accordingly, while the Commission sympathizes with the claimant for the loss of her family's property, it must conclude that her claim is not compensable under the terms of the Settlement Agreement. The claim therefore must be and is hereby denied.

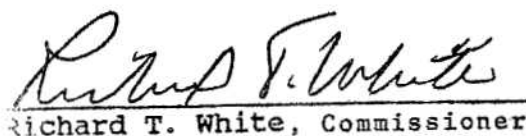
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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


Delissa A. Ridgway, Chair

MAY 07 1996


John R. Lacey, Commissioner


Richard T. White, Commissioner

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