

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

In the Matter of the Claim of

ANDREAS JOHN KOLIOS

Against the Government of Albania

Counsel for Claimant:

}
} Claim No. ALB-225

}
} Decision No. ALB-208

}
} Arthur T. Kolios, Esquire

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real and personal property in Drita and Pepeli, in the District of Gjirokaster.

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 asserted that the properties which are the subject of his claim were confiscated by the Albanian government either "in 1958," or "after 1944." One portion of the claim concerns an interest in non-agricultural real property comprising a house and 2,000 square meters of surrounding land located in Drita. Another portion of the claim concerns eleven parcels of agricultural real property located primarily in Drita, and the final portion of the claim concerns personal property the claimant believes was confiscated sometime after his escape from Albania in 1945. According to the

claimant, either he or his eldest son, Theodore Andreas Kolios, was the owner of the various properties at the time of the confiscations. The claimant has submitted evidence to establish that he obtained his United States nationality by naturalization on June 30, 1964, and that his son Theodore obtained his United States nationality by naturalization on March 26, 1962.

The record in this claim also includes a decision from the "Commission of Return of Properties to Former Owners and Compensation" in Gjirokaster, officially returning the ownership of a residential house and 1700 square meters of non-agricultural land located in Drita to the former owner, ANDREAS KOLIOS, and his son, "Nemo haeres viventis" Theodore Andreas Kolios. The decision further awards compensation for the remaining 300 square meters of land which could not be returned to the former owner(s), and confirms that both the land and the house were confiscated on July 28, 1958.

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). Based on the decision of the Commission on Return of Properties in Gjirokaster, this Commission finds that the non-agricultural property claimed by the claimant is not compensable under the Settlement Agreement since neither the claimant nor his son was a United States national at the time of the confiscation in 1958.

Nor can claimant be compensated for property which has already been returned to him by the Albanian government. Historically, the Commission has consistently held that property which has been restored to the claimant cannot form the basis of a compensable claim under section 602 of Title VI of the

International Claims Settlement Act of 1949. *See, e.g., Claim of ALFRED SCHUTZ against Yugoslavia*, Claim No. Y-1097, Decision No. Y-637 (1958); *Claim of ISAK OLINER and ROCHME OLINER Against Czechoslovakia*, Claim No. CZ-2039, Decision No. CZ-1871 (1961). Claimant's claim for the house and the accompanying land in Drita therefore must be and is hereby denied.

The next part of the claim is for agricultural land. Counsel for the claimant has submitted the claimant's own listing of eleven parcels of land, which are located primarily in Drita. These are identified by name and size. (Two parcels, identified as "Louri" and "Megadromos," are located in Pepeli.) However, there is no other evidence of claimant's ownership of these properties.

Moreover, in claimant's registration of claim (submitted to this Commission in 1992), claimant stated that this property was confiscated on August 29, 1945, pursuant to the Law on Agrarian Reform -- well before either claimant or his son obtained their U.S. nationality.

Accordingly, whether for lack of evidence or lack of jurisdiction, the Commission concludes that claimant's claim for the eleven parcels of agricultural land must also be and is hereby denied.

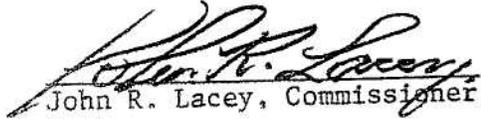
Finally, in support of the claim for personal property, counsel for the claimant has submitted an affidavit sworn to by the claimant himself. However, that affidavit indicates that the loss of personal property occurred when claimant and his family fled Albania in April 1945 -- again, well before either claimant or his son obtained U.S. nationality. The Commission therefore concludes that claimant's claim for personal property too must be and is hereby denied.

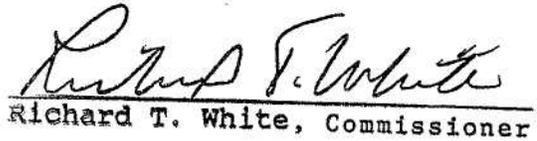
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

This decision was entered as the Commission's
Final Decision on JAN 14 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).