

By letter dated September 3, 1996, claimant stated objection to the Commission's decision, and submitted materials relevant to its status as a national of the United States. Claimant's letter of December 13, 1996 further argues that -- while it was the fascist regime that prematurely terminated claimant's lease -- the current Albanian Government can be held liable on the theory that successor governments generally are considered responsible for the acts of their predecessors.

The Commission's letter of February 4, 1997 acknowledged claimant's argument, but advised claimant to submit authority to support its position on the application of the general principle in this case. The Commission noted that the Albanian Claims Program was nearing completion and requested that claimant forward any additional argument or evidence within 30 days, to ensure that it could be considered in the Commission's Final Decision. To date, claimant has not responded.

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 its supplemental arguments, and has again reviewed the entire record in this claim. However, as explained in the February 4, 1997 letter, the general principle that a successor government is responsible for the acts of its predecessors does not govern here. The government in power in Albania in 1939 was forcibly imposed on the country by the occupying Italian army, and thus was not a legitimate successor of the government of King Zog, which it displaced. The situation was analogous to that of the Czech and Polish governments following the defeat of Nazi Germany; those governments were not considered responsible for the acts that the German occupation authorities had committed in their territories during the occupation.

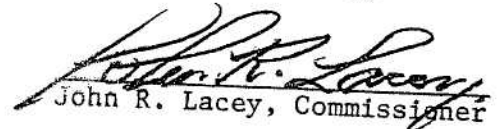
As such, there is no basis upon which to change the result reached in the Commission's Proposed Decision. Accordingly, the denial set forth in the Proposed Decision of August 16, 1996 must be and is hereby affirmed.

This constitutes the Commission's final determination in this claim.

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

FEB 24 1997


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner


Richard T. White, Commissioner

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

In the Matter of the Claim of	}	
NEAR EAST FOUNDATION	}	Claim No. ALB-244
	}	Decision No. ALB-155
Against the Government of Albania	}	
Counsel for Claimant:		Robert C. Helander, Esquire Kaye, Scholer, Fierman, Hays & Handler

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property located in Golem Village in the District of Kavaje.

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 property which is the subject of its claim was taken by the Albanian government in 1939. According to the claimant, which is said to be a registered charity incorporated in New York, it had acquired its interest in the property from the original owner, the Albanian-American Committee of Boston, Massachusetts, for the sum of \$6,000 in 1930. The record appears to indicate, however, that the claimant's interest in this property, which included 700 acres of agricultural land and several buildings, was not an ownership interest but rather a leasehold interest, which was terminated by agreement with the Italian occupation authorities in

Albania in 1939, under which the claimant received a lump-sum payment of \$10,000.

By letter dated April 2, 1996, addressed to claimant's counsel, the Commission requested further information and evidence to establish the validity of this claim under the Settlement Agreement. The Commission advised that if the requested information and evidence was not received by May 31, 1996, the claim would not be submitted to the Commission for determination on the basis of the existing record. To date, no response has been received.

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 finds that claimant has not met the burden of proof in that it has failed to establish that, after the termination in 1939 of its leasehold interest in the property which is the subject of its claim, it continued to hold a legal interest in that property, which interest was subsequently taken by the post-World War II Albanian government. Nor has evidence been submitted to verify that the claimant was incorporated in New York or that it otherwise qualified as a United States national at the times relevant to its claim, as required under the ICSA and the Settlement Agreement. Accordingly, the

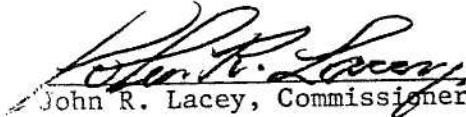
Commission must conclude that this claim is not compensable under the terms of the Settlement Agreement. The claim therefore must be and is hereby denied.

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.

AUG 16 1996


Delissa A. Ridgway, Chair


John R. Lacey, 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).