

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 his claim--including 19 hectares of agricultural land, 17 hectares of pasture land, a two-story house, and a storehouse for grain--were confiscated by the Albanian government in 1950. According to the claimant, the property was then owned by his father, Laze Berdo, an Albanian national until 1960 when he

was naturalized in the United States. Claimant states that he inherited the claim upon the death of his father in 1984.

In support of his claim, the claimant has submitted a document entitled "Decision" from the Court of the District of Vlore dated November 21, 1996. This document appears to support claimant's inheritance from his father.

The Commission's letter dated January 7, 1997 advised the claimant that, in order to qualify for compensation under the Settlement Agreement, the property at issue must have been owned by a United States national at the time the property was taken. Claimant was also advised that the claim for the loss of property must have been continuously held by one or more United States nationals from the date of the confiscation until April 18, 1995, the effective date of the Settlement Agreement. The claimant was requested to provide evidence of the United States nationality of the owners of the property in question. There has been no response from the claimant on this issue.

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 finds that at the time the property at issue in this claim was assertedly taken by the Albanian government, it was not owned by a national of the United States. On the contrary, the record reflects that at the time the property was allegedly taken in 1950, the property was owned by claimant's father, who was then a national of Albania. Accordingly, while the Commission sympathizes with the claimant for the loss of his family's property, it must

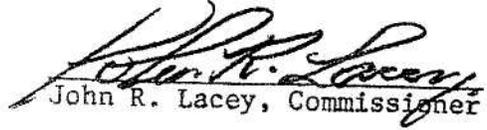
conclude that his claim is not compensable under the terms of the Settlement Agreement. The claim therefore must be and is hereby denied.*

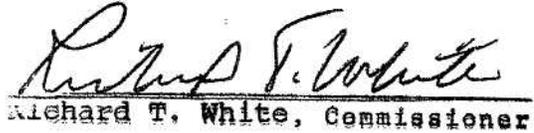
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

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).

*It should also be noted, however, that even if the claimant were to produce evidence to satisfy the nationality requirement, his claim may still be barred from favorable consideration due to the residency requirement of the Settlement Agreement, which limits the Commission's jurisdiction over the claims of dual nationals to those cases where the owner of the claim either (1) was domiciled in the United States on April 18, 1995 (the effective date of the Settlement Agreement), or (2) was domiciled in the United States for at least half the period of time between the date the property was expropriated and April 18, 1995.