

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

---

In the Matter of the Claim of

ISMET HYSENAJ  
FERO HYSENAJ  
AVDULLA HYSENAJ  
VILSON HYSENAJ  
WALTER HYSENAJ  
MERJO HYSENAJ

Against the Government of Albania

---

Claim No. ALB-087

Decision No. ALB-141

Hearing on the record held on November 18, 1996.

FINAL DECISION

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

By Proposed Decision entered in this claim on July 1, 1996, the Commission denied the claim on the ground that the claimants had failed to establish that the property which is the subject of the claim, which was said to have been located in the village of Lekdush, District of Tepelene, was owned by a national of the United States when it was allegedly confiscated.

By letter dated July 21, 1996, the claimants stated objection to the Commission's decision and stated that they expected to submit evidence of the United States nationality of Quemal Dudo Hysenaj, their common ancestor, one of the original owners of the property. Claimants also indicated that they were awaiting receipt of "paperwork" from Albania that would establish that the claimants were the "natural heirs to all properties confiscated by the Albanian government."

By Commission letter dated August 12, 1996, the claimants were advised that they should provide any further evidence which would enable the Commission to reach a more favorable result in their case. That letter also pointed out that, despite numerous letters from the Commission, the claimants have submitted no evidence establishing their own United States nationality. The Commission letter advised the claimants that, for a claim to be eligible for compensation under the U.S.-Albanian Claims Settlement Agreement, the confiscated property upon which the claim is based must have been owned by a United States national at the time the property was taken. In addition, the claim for the loss must have been continuously held by one or more United States nationals from the date the property was taken until April 18, 1995. To date, no other evidence in support of the claim has been submitted.

The Commission has carefully considered claimants' objections and has again reviewed the entire record in this claim. Even if claimants provided evidence of the United States nationality of the original owner(s), the claimants have been silent as to their own nationality.

As explained in the Commission's August 12, 1996 letter to claimants, a successful claimant must prove not only that the claim was owned by a United States national at the time of confiscation; a successful claimant also must prove that the claim has 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. This requirement is well established in the law of international claims, and has long been applied by both this Commission and its predecessor, the International Claims Commission. *See, e.g., Claim of PETER D. JANUS against Yugoslavia*, Claim No. Y-1721, Decision No. Y-0377 (1954); *Claim of MIA FOSTER against Czechoslovakia*, Claim No. CZ-2696, Decision No. CZ-0001 (1960).

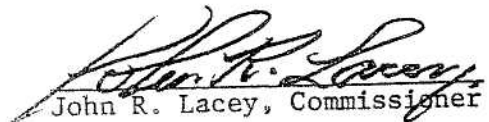
In summary, therefore, the Commission must conclude that there is still no evidence that, at the time the property in question was assertedly taken by the Albanian government, it was owned by a national of the United States; nor is there evidence that the claim has been continuously owned by United States

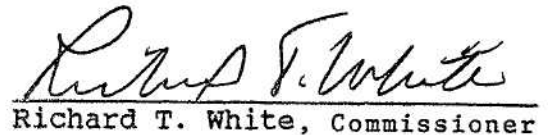
nationals. As such, there is no basis on which to change the result reached in the Commission's Proposed Decision in this claim. Accordingly, the denial set forth in the Proposed Decision of July 1, 1996 must be and it is hereby affirmed. This constitutes the Commission's final determination in this claim.\*

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

NOV 18 1996

  
Delissa A. Ridgway, Chair

  
John R. Lacey, Commissioner

  
Richard T. White, Commissioner

---

\* Under the Settlement Agreement, the Commission lacks jurisdiction over a case *unless* the original owners and the current claimant were both U.S. nationals. However, to the extent that the Commission lacks jurisdiction over this case, these claimants should be entitled to relief through the restitution and compensation program being administered by the Government of Albania even if they are now U.S. nationals. The 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.



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 claimants in this case have asserted that the property which is the subject of their claim was confiscated by the Albanian government in 1946. At that time, according to the claimants, the property was co-owned by their father, Quemal Dudo Hysenaj, and their aunt, Pashe Kochi. The claimants have submitted evidence that Pashe Kochi acquired United States nationality sometime in 1953 but no evidence has been provided to establish the United States nationality of Quemal Dudo Hysenaj, except for two affidavits attesting to his residency in the United States since 1910.

By letters dated February 9, 1996, April 4, 1996, and May 23, 1996, the Commission requested this information, as well as evidence of the claimants' own United States nationality. In response, the claimants have submitted several documents that provide evidence of the confiscation and ownership interests in the property that is the subject of this claim. However, no substantive response has been received to date regarding the United States nationality of Quemal Dudo Hysenaj at the time of confiscation, or that of the claimants.

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 there is no evidence that, at the time the property in question was assertedly taken by the Albanian government, it was owned by a national of the United States. Accordingly, while the Commission sympathizes with the claimants for the loss of their family's property, it must

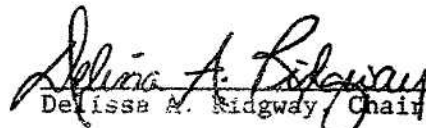


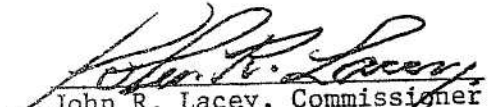
conclude that their claim is not compensable under the terms of the Settlement Agreement. The claim therefore must be and is hereby denied.

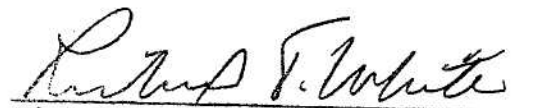
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

JUL 01 1996

  
Delissa A. Ridgway, Chair

  
John R. Lacey, Commissioner

  
Richard T. White, 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).