

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

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In the Matter of the Claim of

JOHN DEMMA

Against the Government of Albania

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Claim No. ALB-027

Decision No. ALB-013

AMENDED PROPOSED 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 November 25, 1995, the Commission denied the first claim filed by this claimant. That decision found that claimant had failed to establish that the property there at issue, said to have been located in the village of Patos, was owned by a national of the United States when it was allegedly confiscated. Claimant did not object to the November 25, 1995 Proposed Decision. Indeed, claimant's letter of February 5, 1996 affirmatively states that that Proposed Decision "is accepted."

In the meantime, by letter dated November 29, 1995, claimant submitted an amended Statement of Claim for the confiscation of a department store in Fier (in which he allegedly invested \$ 75,000) and for the alleged confiscation of

clothing, merchandise and a TV which he had shipped to his brother in Albania in 1969-70.\* Claimant supplemented that information with another amended Statement of Claim (dated February 10, 1996) concerning the same property. According to the February 10, 1996 submittal, the Fier store -- of the type known as a "five-and-dime" in the U.S. -- was confiscated (together with its inventory) by the Communist government in 1955 "as soon as they learned that [claimant and his wife] became American citizen[s]." The February 10, 1996 submittal further states that the personal property shipped to Albania arrived at the Tirana post office, which refused to deliver it.

By Commission letter dated February 20, 1996, the claimant was asked to provide any further evidence which would enable the Commission to reach a favorable result in his amended claim. In response, by letter dated March 24, 1996, the claimant submitted a copy of a letter from his brother, Taqi Dema, dated August 26, 1971, in which Taqi Dema advised the claimant that he had

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\*By letter dated February 20, 1996, the Commission indicated that the claim for the Fier store and personal property would be treated as an objection to the Commission's November 25, 1995 Proposed Decision. However, on reflection, the Commission has decided instead -- for the benefit of claimant -- to deem it an amendment of the original claim and to make it the subject of this separate Amended Proposed Decision.

received no packages from the claimant. The claimant also submitted a copy of a document in Albanian which seems to indicate that Abit Dema was the owner of certain property in an unspecified area. Finally, on March 28, 1996, the claimant submitted evidence of his and his wife's United States nationality. However, no other evidence in support of the claim has been submitted.

As a threshold matter, the Commission notes that claimant has never explained why his original Statement of Claim did not include either a claim for the Fier store and inventory or for the clothing, merchandise and TV allegedly shipped but never delivered. The fact that they were not mentioned on the original claim form casts some doubt on the claim, and imposes a particularly heavy burden on this claimant to prove the very existence (as well as his ownership) of the real and personal property for which he is now claiming.

To date, claimant has provided no evidence of any type to support his statements that he and his wife were the owners of any store in Fier. Nor has he provided any evidence (other than his own statements) of the approximate value of the store, or the contents and approximate value of its inventory. Finally, claimant has provided no evidence of any type concerning the date and circumstances of the confiscation (other than his own statements that it occurred sometime in the year 1955, assertedly in retaliation for the U.S. naturalization

of claimant and his wife). The Commission therefore must conclude that the evidence is not sufficient to support a finding that the claimant was the owner of a store in Fier.

The second part of the amended claim is for the personal property (clothing, merchandise, and a TV) allegedly shipped in 1969-70 by claimant but never delivered to his brother in Albania. This part of the claim too is basically unsupported by evidence (other than the statements of claimant himself).

The only documentary proof claimant has offered is his own translation of excerpts of an August 26, 1971 letter from his brother, Taqi Dema, which appears to reflect the unsuccessful efforts of claimant's brother to track down a 22" or 25" black and white TV and other packages through the post offices in Tirana and Durres. That letter indicates that the Albanian authorities acknowledged to claimant's brother that they had received one package in December 1970, which would be forwarded to him in due course (but which, according to the August 1971 letter, was not). The letter further indicates that claimant's brother asked the Albanian authorities about two other packages, and was told that they had not been received.

Claimant has not submitted any receipts or canceled checks to prove his purchase of the clothing, merchandise and TV. Nor has he submitted any proof that the goods were ever shipped (such as a receipt from the U.S. post office or a shipping agent, or proof of shipping insurance). Nor has claimant provided any evidence or explanation to support his statements concerning the value of the property claimed. Finally, while the August 1971 letter from claimant's brother could fairly be read to indicate that the goods at issue here were confiscated by the Albanian authorities (rather than simply lost in the mails or stolen by common thieves), it would be difficult for the Commission to draw such a conclusion based on the letter alone. And, in any event, the letter would prove -- at most -- that one of the three packages reached (and was thus subject to confiscation by) the Albanian postal authorities; according to the letter, the Albanian authorities affirmatively denied receiving the other two packages, and apparently were not asked specifically about the TV.

The Commission finds that the claimant has failed to submit sufficient supporting evidence to establish ownership of the personal property for which he now claims, the date and circumstances of its confiscation, and its value at that time.

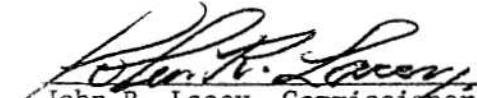
In the absence of the evidence described above, the Commission is unable to find that the claim for the real and personal property in question is compensable under the Settlement Agreement. Accordingly, this amended claim must be and is hereby denied.


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.

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 MAR 25 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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JOHN DEMMA		Claim No. ALB-027
Against the Government of Albania		Decision No. ALB-013

PROPOSED DECISION

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

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 property which is the subject of his claim was confiscated by the Albanian government between 1944 and 1947. In that time period, according to claimant, the property was owned by his father, Miti Dema, 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).

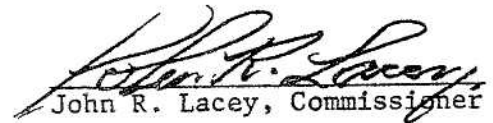
The Commission finds that, at the time the property in question was assertedly taken by the Albanian government, it was not owned by a national of the United States. Accordingly, while the Commission sympathizes with the claimant for the loss of his family's property, it must conclude that his claim 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.

  
Delissa A. Ridgway, Chair

NOV 27 1995

  
John R. Lacey, Commissioner

  
Richard T. White, Commissioner

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