

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

In the Matter of the Claim of

CLEOPATRA KARSELAS
EFTALIA MALIOU
GEORGE KARSELAS
OLGA DNTULE

Claim No. ALB-032
ALB-034
ALB-035
ALB-043

Decision No. ALB-113

Against the Government of Albania

Hearing on the record held on April 15, 1997

FINAL DECISION

These claims against the Government of Albania are based upon the alleged loss of certain real property in Perth Amboy, New Jersey, as the result of wrongful actions of the Albanian Communist regime.

By Proposed Decision entered on March 4, 1996, the Commission denied these claims, on the ground that it lacks jurisdiction, since the claimants were not and are not nationals of the United States.

By letters received by the Commission on April 26, 1996, and May 15, 1996, claimants OLGA DNTULE and EFTALIA MALIOU sought to object to the Proposed Decision, asserting that the Albanian communist regime interfered with their efforts to dispose of their father's property in the United States after

his death, and arguing that the Commission should therefore give favorable consideration to their claims, notwithstanding their lack of U.S. nationality.

Because claimants have 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 considered the claimants' objection, and has again reviewed the entire record in their claims. However, the Commission is constrained to conclude that, without regard to the merits of their claims, the Commission lacks jurisdiction to adjudicate those claims, since claimants were not U.S. nationals at the time of the alleged interference or at any other time.

Under a well-established principal of the law of international claims, which this Commission has applied without exception, 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

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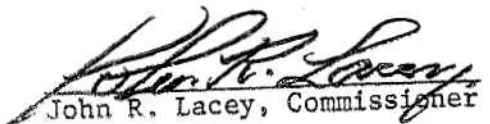
(1976); *Claim of JOSEPH REISS Against the German Democratic Republic*, Claim No. G-2853, Decision No. G-2499 (1981); *Claim of TRANG KIM Against Vietnam*, Claim No. V-0014, Decision No. V-0001 (1982). This principle has also been recognized by the courts of the United States. *See, e.g., Haas v. Humphrey*, 246 F.2d 682 (D.C. Cir. 1957), *cert. denied* 355 U.S. 854 (1957).

Accordingly, the denial of these claims as set forth in the Proposed Decision of March 4, 1996, must be and is hereby affirmed. This constitutes the Commission's final determination in these claims.

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

APR 15 1997


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner

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Against the Government of Albania

PROPOSED DECISION

These claims against the Government of Albania are based upon the alleged loss of certain real property in Perth Amboy, New Jersey.

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 claimants in these claims state that their father, Thomas Karselas, who died in the United States in 1962, had owned a house and lot at 201 Front Street in Perth Amboy, New Jersey. They further state that after their father's death his property was managed on their behalf by an attorney, George B. Pollack, also of Perth Amboy. However, they allege that in 1974 the Albanian Communist regime forced them to relinquish the property by requiring them to sign a document discharging Mr. Pollack from his position as their representative and substituting in his place the law firm of Wolf Popper Ross

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Wolf & Jones of New York. They state that they were forced at that time to sign documents requesting the transfer to them of funds in an account in the National Bank of Perth Amboy, and that in January 1976 each of them then received a payment in the amount of \$9,236.84 through the "Commission Society of Tirana."

By letters dated December 7, 1995, the claimants were advised that evidence would be required to establish that they were United States nationals at the time their claims allegedly arose and to support their contention that the Albanian government was responsible for the loss allegedly giving rise to their claims. To date, however, the claimants have not responded.

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

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The Commission finds that, at the time of the events which allegedly gave rise to these claims, the claimants were not nationals of the United States. If for no other reason, their claims thus are not compensable under the terms of the Settlement Agreement.

The Commission further finds that claimants have not established that the Albanian government is responsible for any loss they sustained. On the contrary, the evidence and information before the Commission indicates that, for whatever reason, the claimants' father's real property was sold by their representative on their behalf and the sales proceeds were forwarded to them in Albania. There is no indication that the Albanian government interfered

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with their receipt of the funds or that the amounts they received were diminished by any action of that government.

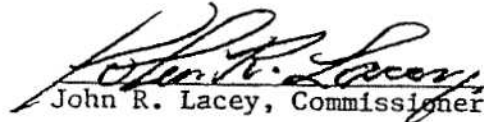
For the foregoing reasons, the Commission concludes that the claimants' claims must be and they are hereby denied.

The Commission finds it unnecessary to make determinations with respect to other elements of these claims.

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


Delissa M. Ridgway, Chair

MAR 04 1996


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).

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