

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

In the Matter of the Claim of	}	
HAMIT NELA		Claim No. ALB-050
Against the Government of Albania		Decision No. ALB-119

PROPOSED DECISION

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

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 claim form in this case (dated September 1995) states that claimant was naturalized as a United States citizen in 1975. The claim form further states that claimant inherited the property at issue upon the death of his father in May 1974. According to the claim form, claimant allowed his cousins to live in the house until June 1977, when the property was confiscated and his cousins were forcibly evicted.

However, these recent statements by claimant conflict with a registration form that claimant filed with the Commission in March 1992. At that time, the

claimant stated that the confiscation occurred in 1961, when he was still an Albanian national.

By letter dated October 27, 1995, the Commission asked claimant to submit evidence to establish the date of his naturalization as a U.S. citizen, as well as evidence of his ownership of the property in question. To date, however, no response has been received. Based on the evidence now before it, the Commission is unable to reconcile the apparent discrepancies between claimant's 1995 claim form and his 1992 registration form.

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 the claimant has not met the burden of proof in that he has failed to submit supporting evidence to establish the date he acquired United States nationality, his ownership of the property which is the subject of his claim, and the date and circumstances of its alleged confiscation. In the absence of such evidence, the Commission is unable to find 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 claimant for the loss of his family's

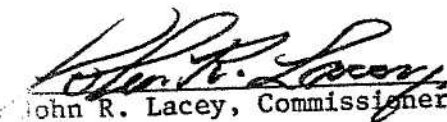
property, it must conclude that his claim is not compensable under the terms of the Settlement Agreement. The claim therefore must be and is hereby denied.

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.

MAY 07 1996


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner


Richard T. White, Commissioner

This decision was entered as the Commission's
Final Decision on JUL 02 1996

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) (1994).