

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 | } | |
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| RAY METE MUKAJ | } | Claim No. ALB-343 |
| | } | |
| | } | Decision No. ALB-324 |
| | } | |
| Against the Government of Albania | } | |
| | } | |

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property in the village of Luftinj, district of Tepelene.

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) (2004).

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 in 1947 and that one of the already confiscated parcels was converted into a coal mine in 1977 by the Albanian government. The claimant has also stated that he became a United States national by naturalization in 1976. According to the claimant he was the owner of the property when it was confiscated in 1947.

In support of his claim claimant has provided evidence of his naturalization; video footage of the property; decisions numbered 843 and 844 of the Gjirokaster Commission on the Return and Compensation of Property (CRCP) dated April 29, 2003; a certification dated 1/23/2007 from the Regional Counsel of Land Administration and Protection Agency, Tepelene; and a certificate dated 2/23/2009 from the Council of the Village of Luftinj.

The claimant has stated on his claim form that the property claimed herein was confiscated by the Albanian government in 1947. Claimant's assertion is

supported by the certificate dated 2/23/2009 from the Council of the Village of Luftinj wherein the Council states that the claimant was the owner of the aforementioned properties prior to the "Agricultural Reform of the year 1946 on the territory of this Village." Claimant further states that a portion of the already confiscated property was converted into a coal mine in 1977 by the Albanian government. This assertion is supported by the certificate dated 1/23/2007 from the Regional Counsel of Land Administration and Protection Agency, Tepelene.

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).

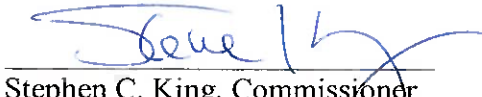
The Commission finds that there is no evidence that, at the time the property in question was assertedly taken by the Albanian government in 1947, it was owned by a national of the United States¹. Accordingly, while the Commission sympathizes with the claimant for the loss of his property, it must conclude 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, D.C. and entered as the Proposed Decision of the Commission.

MAR 18 2009


Mauricio J. Tamargo, Chairman


Stephen C. King, Commissioner


Rafael E. Martinez, Commissioner

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

~~APR 22 2009~~

NOTICE: Pursuant to the Regulations of the Commission, any objections must be filed within 15 days after service or receipt of notice of this Second Amended 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. 509.5 (e) and (g) (2008).

¹ The use of a portion of the already confiscated property was changed after claimant was naturalized although at that time it was no longer owned by the claimant as the Albanian government had confiscated it many years prior to its conversion to a coal mine.