

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

In the Matter of the Claim of	}	
	}	
	}	
KOSTAS VAINIKOS	}	Claim No. ALB-351
	}	
	}	Decision No. ALB-333
	}	
Against the Government of Albania	}	

PROPOSED DECISION

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

Under section 4(a) of Title 1 of the International Claims Settlement Act of 1949 ("ICSA"), as amended, the Commission has jurisdiction to

receive, examine, adjudicate, and render a final decision with respect to any claim of . . . any national of the United States . . . included within the terms of any claims agreement concluded on or after March 10, 1954, 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)(1)(B) (2006).

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 asserts that the property which is the subject of his claim was confiscated by the Albanian government in May 1946 and that he was the owner of the property at the time of confiscation. He further states, however, that he did not become a U.S. national until 1962.

It is a well-established principle of the law of international claims, which has been applied by both this Commission and its predecessors, the War Claims Commission and the International Claims Commission, that a claim may be found compensable only if the property that forms the basis of the claim was owned by a U.S. national at the time the property was confiscated, expropriated, or otherwise taken. *See, e.g., Claim of THE ESTATE OF JOSEPH KREN, DECEASED against Yugoslavia, Claim No. Y-0660, Decision No. Y-1171 (1954); Claim of ILONA CZIKE against Hungary, Claim No. HUNG-2-0784, Decision No. HUNG-2-191 (1976); and Claim of JOSEPH REISS against the German Democratic Republic, Claim No. G-2853, Decision No. G-2499 (1981).* Congress has explicitly reaffirmed "the principle and practice of the United States to seek compensation from foreign governments on behalf only of persons who were nationals of the United States at the time" of loss. Czechoslovakian

Claims Settlement Act of 1981, Pub. L. No. 97-127, § 6(a)(2)(B), 95 Stat. 1675, 1677 (1981).

By Commission letter dated April 14, 2011, the claimant was asked to provide evidence to substantiate his claim, including evidence that the property on which his claim is based was held by a U.S. national at the time of the alleged confiscation. To date, however, no response has been received.

Section 509.5(b) of the Commission's regulations provides:

The claimant will have the burden of proof in submitting evidence and information sufficient to establish the elements necessary for a determination of the validity and amount of his or her claim.

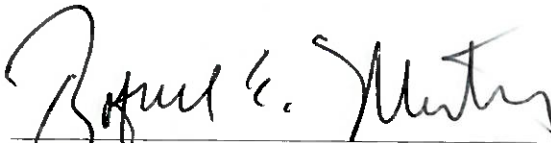
45 C.F.R. 509.5(b)(2011).

The claimant has not met his burden of proof to provide evidence sufficient to establish that the property that is the subject of his claim was owned by a U.S. national at the time of confiscation. Indeed, the only submission in this claim—claimant's own Statement of Claim form—indicates that at the time of the alleged confiscation, claimant owned the land but was not a U.S. national. Under the terms of the Settlement Agreement, this claim thus is not compensable.

Accordingly, the claim must be and is hereby denied.

Dated at Washington, DC, January 22, 2013,  
and entered as the Proposed Decision of the  
Commission.

  
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Timothy J. Feighery, Chairman

  
\_\_\_\_\_  
Rafael E. Martinez, Commissioner

  
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Anuj C. Desai, Commissioner

**The decision was entered as the  
Commission's Final Decision on**

**February 27, 2013**

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. 509.5 (e) and (g) (2011).