

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

In the Matter of the Claim of

QIRJAKO MINKA

Against the Government of Albania

Claim No. ALB-286

Decision No. ALB-261

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property located in the village of Polena, in the District of Korce.

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 Agreed Minute to the Settlement Agreement further provides:

For purposes of article 1, the term "United States nationals" shall include dual United States-Albanian nationals only if those nationals are domiciled in the United States currently or for at least half the period of time between when the property was taken and the date of entry into force of the agreement.

In effect, this residency requirement limits the Commission's jurisdiction over the claims of dual nationals to those cases where the owner of the claim either (1) was domiciled in the United States on April 18, 1995 (the effective date of the Settlement Agreement), or (2) was domiciled in the United States for at

least half the period of time between the date the property was expropriated and April 18, 1995.

Claimant here, assertedly a United States national by birth, seeks compensation for four parcels of land (10,500 square meters, 4000 square meters, 1500 square meters and 3000 square meters), in addition to a house on 750 square meters of land, all said to have been expropriated by the Albanian government in the establishment of the agricultural cooperative in 1956. At that time, according to claimant, the properties were owned by his father, Irak Minka, who was naturalized as a United States citizen before claimant's birth. The claimant states that he inherited the right to claim for the properties upon the death of his father.

Unfortunately, the information provided by claimant to date is not sufficient to establish his right to compensation.

It appears that claimant is a dual U.S.-Albanian national, because his father was an Albanian citizen. Under Albanian law, claimant retains Albanian nationality notwithstanding his U.S. nationality by birth.

Because claimant is a dual United States-Albanian national, the Commission is constrained to apply the residency requirement in the Agreed Minute to the Settlement Agreement. However, there is no evidence that claimant was living in the United States on April 18, 1995 (the effective date

of the Settlement Agreement). Nor is there any evidence that the owner of the claim (claimant's father, then -- after his death -- claimant) lived in the U.S. for at least half of the approximately 39 years between April 1915 and 1956, when the claim arose.

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 claimant here has not met the burden of proof to establish either that he was living in the United States on April 18, 1915 or that the owner of the claim lived in the United States for at least half the time between April 18, 1915 and the date the claim arose. In the absence of such evidence, the Commission is unable to find that the residency requirement in the Agreed Minute to the Settlement Agreement is satisfied.

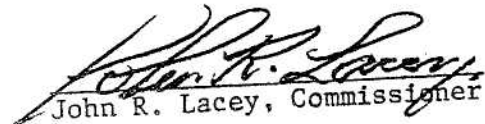
Accordingly, while the Commission sympathizes with claimant for the loss of his family's property, it cannot find -- on the evidence submitted to date -- that this claim is compensable under the terms of the Settlement Agreement. The claim therefore must be and is hereby denied.

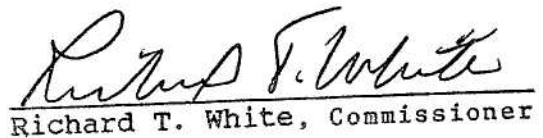
The Commission finds it unnecessary to make determinations with respect to other elements of the claim.

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

JAN 28 1997

  
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).