

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

In the Matter of the Claim of	}	
	}	
	}	
THOMAS J. LUCAS	}	
JOHN A. LUCAS	}	Claim No. ALB-302
GEORGE A. LUCAS	}	
PYRUS A. LOUKAS	}	Decision No. ALB-207
	}	
Against the Government of Albania	}	

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property in Leusa and the District of Permet.

As a preliminary matter, the Commission notes that the claim was received by the Commission after the expiration of the Commission's filing deadline of December 29, 1995. However, the Commission has decided to accept the claim for consideration on its merits.

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 herein, THOMAS J. LUCAS, JOHN A. LUCAS, GEORGE A. LUCAS and PYRUS A. LOUKAS, have submitted three claim forms this in case (one of which was actually an amendment of another), for properties allegedly confiscated by the Albanian government in 1957. Each of

the claims are based on an interest in real property located in Leusa and Permet, in the District of Permet.

The first claim, dated June 30, 1996, is for the loss of several parcels of real property located in "Permet and its environs," consisting of a large dwelling, out buildings, farms and vineyards. According to the claim form, these properties were owned by claimant's maternal grandparents, Vasil and Marika Xhitomi, who were both Albanian citizens at the time of confiscation. Claimants state that after the death of their grandparents, their mother, Antigone Xhitomi (Loukas), inherited the property; and that, upon their mother's death in 1980, they acquired their interests in this claim.*

*A review of the Commission's records in the General War Claims program, conducted under Title II of the War Claims Act of 1948, as amended (50 U.S.C. App. 2017), show that Antigone Loukas, claimants' mother, filed a claim for the destruction, by the German occupation forces in June 1944, of real and personal property located in Leusa. The property in her claim was described as a "residence building, walls and shops, and household goods...at Leusa, Permet." That record established that Antigone Loukas obtained her United States nationality by naturalization on June 25, 1945; her claim in that program was denied on the basis that she was not a United States citizen at the time of the asserted loss of her property. (*Claim of ANTIGONE LOUKAS*, Claim No. W-2925, Decision No. W-10258 (1966).)

The claimants subsequently submitted a second claim form virtually identical to the first, except that the name of the claimants' maternal grandmother was changed from "Marika" to "*Olimbia*" and the claimants indicated that the property for which they were claiming was located in Permet "*and Leuse.*" A copy of Antigone Loukas's death certificate was included with this claim form.

A third claim form dated September 13, 1996, was submitted for the alleged confiscation, in 1957, of "large dwellings, out buildings, storage and commercial properties" located in "Permet and environs." According to claimants, the property was then owned by their father, (John) Apostol Loukas, a national of the United States by naturalization in 1927, who inherited it from his father. Claimants also submitted a copy of Apostol Loukas's Certificate of Naturalization and his death certificate.

By letters dated July 19, 1996 and October 10, 1996, claimants were asked to provide the Commission with certain evidence to support their claims. In response, the claimants have submitted their United States birth certificates, together with a document from the Cadastral Office in Permet indicating that their maternal grandfather, Vasil Zhitomi, was the owner of two *dynym* of pasture (2,000 square meters, or about one-half acre) of pasture and two *dynym*

of vineyards with 2,000 vine roots planted thereon. However, no other supporting evidence has been received.

The first claim, as amended -- for property in Permet and Leuse, allegedly confiscated from claimants' mother's family -- must fail because, as claimants concede, the property at issue was owned by two Albanian nationals at the time of confiscation.

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). Since the Permet and Leuse property at issue was owned by Albanian nationals at the time of confiscation, this part of the claim is not compensable under the terms of the Settlement Agreement.

The claim for the other properties -- in "Permet and environs," allegedly inherited through the family of claimants' father -- also fails.

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 claimants have not met the burden of proof on their second claim in that they have failed to submit supporting evidence to identify and establish the ownership of the properties which are the subject of their claim, to establish their interest in the claim for those properties, and to establish the dates and circumstances of the alleged confiscations.

Accordingly, while the Commission sympathizes with claimants for the loss of their family properties, it must conclude that the claimants' claim is not compensable under the terms of the Settlement Agreement. The claim therefore must be and is hereby denied.

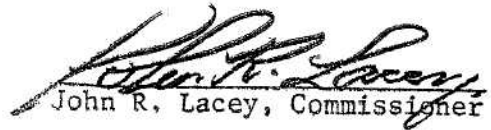
The Commission notes, however, that -- to the extent that claimants are claiming for properties which were owned by Albanian citizens at the time of confiscation -- claimants may be entitled to relief through the restitution and compensation procedures being administered by the Government of Albania. Indeed, the Settlement Agreement between the U.S. and Albania requires that the Government of Albania afford U.S. nationals the same rights that it affords Albanian nationals to pursue and receive compensation, restitution or any other remedy available under the domestic restitution and compensation procedures established by that government.

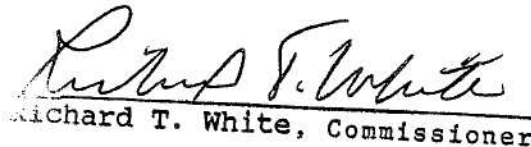
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

NOV 18 1996


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner


Richard T. White, Commissioner

This decision was entered as the Commission's Final Decision on JAN 14 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).