

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

In the Matter of the Claim of

ETHEL CONSTAS
JOHAN BOTKA
PREMTE PECO
DORA BLUSHI
IDA TRESKA
LLAZARAQ KOSTANDIN

Against the Government of Albania

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} Claim No. ALB-080
} Decision No. ALB-270(R)
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SECOND AMENDED FINAL DECISION

This claim against the Government of Albania is based upon the confiscation of real property located in the city of Korce.

By Amended Final Decision entered on June 29, 2006, the Commission entered an award in favor of ETHEL CONSTAS and DHIMITRA BOTKA each in the principal amount of \$1,000.00, together with an interest award of \$2,908.00, for their respective inherited one-third shares in the claim for the loss of their father's one-half interest in the apartment in Korce which is the subject of this claim. *

*The Commission had previously made an award in this same amount to claimants' brother, LLAZARAQ KOSTANDIN, in 1997.

Some months later, Claimant ETHEL CONSTAS advised the Commission that DHIMITRA BOTKA had died on March 11, 1999 in Korce, Albania. Subsequently, the Commission received a copy of DHIMITRA BOTKA's death certificate and a Decree from the Law Court of the Judicial District of Korce identifying her heirs as her children, JOHAN BOTKA, PREMTE PECO, DORA BLUSHI and IDA TRESKA.

The Commission has carefully reviewed the recent submission and concludes that the four above-named individuals should be substituted herein in place of their late mother, DHIMITRA BOTKA. Accordingly, each of them is now entitled to a one-fourth share of the award that was originally made to their mother in the principal amount of \$1,000.00 for her share in her father's claim for the loss of his one-half interest in the apartment in Korce.

Under the terms of the U.S.-Albania Settlement Agreement, the United States Government has agreed to advise the Albanian authorities of the issuance of the Commission's awards so as to prevent any double recovery. A copy of this decision thus will be forwarded to the Albanian government in due course.

Accordingly, the Commission makes the following awards, which will be certified to the Secretary of the Treasury for payment in accordance with sections 5, 7, and 8 of Title I of the International Claims Settlement Act of 1949, as amended

(22 U.S.C. §§1624, 1626, and 1627). This constitutes the Commission's final determination in this claim.

A W A R D S

Claimant JOHAN BOTKA is entitled to an award in the principal amount of Two Hundred Fifty Dollars (\$250.00), plus interest from November 1, 1946, to April 18, 1995, in the amount of Seven Hundred Twenty-Seven Dollars (\$727.00), for a total award of Nine Hundred Seventy-Seven Dollars (\$977.00).

Claimant PREMTE PECO is entitled to an award in the principal amount of Two Hundred Fifty Dollars (\$250.00), plus interest from November 1, 1946, to April 18, 1995, in the amount of Seven Hundred Twenty-Seven Dollars (\$727.00), for a total award of Nine Hundred Seventy-Seven Dollars (\$977.00).

Claimant DORA BLUSHI is entitled to an award in the principal amount of Two Hundred Fifty Dollars (\$250.00), plus interest from November 1, 1946, to April 18, 1995, in the amount of Seven Hundred Twenty-Seven Dollars (\$727.00), for a total award of Nine Hundred Seventy-Seven Dollars (\$977.00).

Claimant IDA TRESKA is entitled to an award in the principal amount of Two Hundred Fifty Dollars (\$250.00), plus interest from November 1, 1946, to April 18, 1995, in the amount of Seven Hundred Twenty-Seven Dollars (\$727.00), for a total award of Nine Hundred Seventy-Seven Dollars (\$977.00).

Dated at Washington, DC and
entered as the Second Amended Final
Decision of the Commission.

JUL 20 2007



Mauricio J. Tamargo, Chairman



Stephen C. King, Commissioner

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

In the Matter of the Claim of	}	
	}	
	}	
	}	
ETHEL CONSTAS	}	Claim No. ALB-080
DHIMITRA BOTKA	}	
LLAZARAQ KOSTANDIN	}	Decision No. ALB-270(R)
	}	
	}	
Against the Government of Albania	}	

AMENDED FINAL DECISION

This claim against the Government of Albania is based upon the confiscation of real property located in the city of Korce.

By Proposed Decision entered on January 28, 1997, the Commission entered an award in favor of LLAZARAQ KOSTANDIN in the principal amount of \$1,000.00, together with an interest award of \$2,908.00, for his inherited one-third share in the claim for the loss of his father's one-half interest in the apartment in Korce which is the subject of this claim. In the absence of an objection, this award was certified to the Secretary of the Treasury for payment on May 16, 1997. As for claimants ETHEL CONSTAS and DHIMITRA BOTKA, however, the Commission was constrained to deny their claims based on their inherited one-third shares in their father's claim, because they did not satisfy the residency requirement in the Agreed Minute to

the U.S.-Albania Claims Settlement Agreement. *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").

By letters dated March 11, 1997, and July 31, 1997, ETHEL CONSTAS and DHIMITRA BOTKA sought to object to the Proposed Decision and requested that the Commission reconsider its denial of their claims. However, after careful consideration the Commission concluded that it had no alternative but to affirm the Proposed Decision. A Final Decision to this effect was issued on April 16, 1998.

The Commission has now been informed, however, that in a Diplomatic Note dated April 27, 2006, the Albanian Minister of Foreign Affairs advised the United States Embassy in Albania that it accepted and agreed with the proposal made by the United States Government on November 18, 2005, to delete the residency requirement from the Agreed Minute to the Settlement Agreement. Based on this modification of the Settlement Agreement, the Commission concludes that claimants ETHEL CONSTAS and DHIMITRA BOTKA are now entitled to awards in the principal amount of \$1,000.00 each

for their shares in their father's claim for the loss of his one-half interest in the apartment in Korce. These awards shall date from November 1, 1946.

Under the terms of the U.S.-Albania Settlement Agreement, the United States Government has agreed to advise the Albanian authorities of the issuance of the Commission's awards so as to prevent any double recovery. A copy of this decision thus will be forwarded to the Albanian government in due course.

Accordingly, the Commission makes the following awards, which will be certified to the Secretary of the Treasury for payment in accordance with sections 5, 7, and 8 of Title I of the ICSCA (22 U.S.C. §§1624, 1626, and 1627). This constitutes the Commission's final determination in this claim.

A W A R D

Claimant ETHEL CONSTAS is entitled to an award in the principal amount of One Thousand Dollars (\$1,000.00), plus interest from November 1, 1946, to April 18, 1995, in the amount of Two Thousand Nine Hundred Eight Dollars (\$2,908.00), for a total award of Three Thousand Nine Hundred Eight Dollars (\$3,908.00).

Claimant DHIMITRA BOTKA is entitled to an award in the principal amount of One Thousand Dollars (\$1,000.00), plus interest from November 1, 1946, to April 18, 1995, in the amount of Two Thousand Nine Hundred Eight

Dollars (\$2,908.00), for a total award of Three Thousand Nine Hundred Eight

Dollars (\$3,908.00).

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

JUN 29 2006



Mauricio J. Tarrago, Chairman



Stephen C. King, Commissioner

CONSTAS and DHIMITRA BOTKA, based on the United States residency requirement in the Agreed Minute to the U.S.-Albania Claims Settlement Agreement. *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").

By letters dated March 11, 1997 and July 31, 1997, claimant ETHEL CONSTAS -- on behalf of herself and her sister DHIMITRA BOTKA -- objected to the denial of their portion of the claim and requested reconsideration by the Commission.² Accordingly, the Commission has conducted a *de novo* review of their claims.

²Under the Commission's regulations, a Proposed Decision becomes final after 30 days, absent the filing of an objection. 45 C.F.R. §531.5(g). Thereafter, a claimant may seek reconsideration only through a petition to reopen on the ground of newly-discovered evidence. 45 C.F.R. §531.5(1). Recognizing, however, that domestic turmoil in Albania impeded the efforts of many claimants to obtain evidence to support objections, the Commission in its discretion has decided to treat tardy submittals (such as that here) as timely-filed objections.

In her letters of objection, ETHEL CONSTAS states that all three claimants in this case received their U.S. passports at the same time. However, only her brother was able to leave Albania in October 1994, to join his sons in the United States. Claimants CONSTAS and BOTKA are aged and infirm, and thus unable to live alone in the United States. Accordingly, they have been forced to delay their emigration for three years -- the waiting period for the issuance of their daughters' visas. Claimant CONSTAS' most recent letter (dated March 30, 1998) is to the same effect.

The Commission sympathizes with the claimants in their objection and would much prefer to treat the cases of all U.S. national claimants alike, rather than distinguishing among them on the basis of residence. However, under its authorizing legislation, the Commission is required to apply the Settlement Agreement as written. The Commission unfortunately has no discretion to disregard or refrain from applying any provision of the Agreement. The Commission is therefore constrained to conclude that the denial of the claims of ETHEL CONSTAS and DHIMITRA BOTKA must be and is hereby affirmed.³

³Because the Commission lacks jurisdiction over those portions of the claim belonging to claimants CONSTAS and BOTKA, they should be entitled to relief through the restitution and compensation program being administered by the Government of Albania (if it is not too late to file a claim there). Indeed, the Settlement Agreement between the U.S. and Albania requires that the Government of Albania afford such U.S. nationals the same rights that it affords

The award in the claim of LLAZARAQ KOSTANDIN -- which has already been paid by the Secretary of the Treasury -- is restated below.

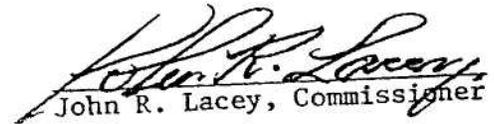
This constitutes the Commission's final determination in this claim.

AWARD

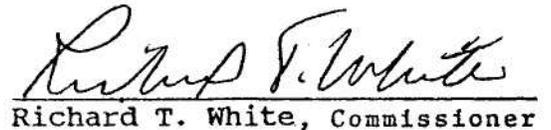
Claimant, LLAZARAQ KOSTANDIN, is entitled to an award in the principal amount of One Thousand Dollars (\$1,000.00), plus interest from November 1, 1946, to April 18, 1995, in the amount of Two Thousand Nine Hundred Eight Dollars (\$2,908.00), for a total award of Three Thousand Nine Hundred Eight Dollars (\$3,908.00).

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


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner

APR 16 1998


Richard T. White, Commissioner

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 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.

Claimants here, United States nationals by birth, seek compensation for a one-half interest in an eight-room apartment (above a first-floor shop) in a two-story building on the main square in Korce, which was expropriated by the government of Albania in 1950. At that time, according to claimants, the rights to the apartment were co-owned by their father, Peter Conostas (Pandeli Konstandin Jovan), and his brother-in-law, Jorgji Stavre Zaharia.* Claimants' father was naturalized as a citizen of the United States in 1916, and died in 1950. Claimants assert this claim as the heirs of their father.

In support of their claim, claimants have submitted documentation including copies of the naturalization certificate of their father; the birth certificate of ETHEL CONSTAS; the U.S. passports of all three claimants; the deed of purchase for the October 1934 sale of the property; evidence of the

*According to claimants, their father and Mr. Zaharia bought the building from Thimaq Cale in 1934, when Mr. Cale defaulted on a loan from the two men. When Decree No. 355 (promulgated by the Albanian government in 1946) extinguished loans made before November 1944, Mr. Cale instituted court proceedings against claimants' father and Mr. Zaharia. As a result of those proceedings, the apartment was returned to Mr. Cale and the shop was returned to claimants' father and Mr. Zaharia. The entire building was subsequently nationalized in 1950. The Albanian authorities returned the shop to claimants' family in 1993 or 1994, but the apartment was returned to Mr. Cale's family.

confiscation in March 1950; and an ownership certificate evidencing the 1994 return of the shop to claimants' family.

Unfortunately, as explained in the Commission's letters dated February 9, 1996 and May 23, 1996, and discussed below, the residency requirement in the Agreed Minute to the Settlement Agreement precludes the Commission's consideration of those parts of the claim belonging to ETHEL CONSTAS and DHIMITRA BOTKA.

The Commission is constrained by the Settlement Agreement to apply the residency requirement to the claims of all dual U.S.-Albanian nationals. All three claimants are dual U.S.-Albanian nationals, because their father was an Albanian citizen. Under Albanian law, claimants retain Albanian nationality notwithstanding their U.S. nationality by birth.

While Mr. Kostandin has lived in the United States since October 1994, there is no evidence that claimants Constas and Botka were living in this country on April 18, 1995 (the effective date of the Settlement Agreement). Indeed, there is no evidence that they have lived in the United States at any time since their father's death (when they became owners of the claim). Thus, it cannot be said that the owners of their parts of the claim (their father, and then -- after his death -- claimants Constas and Botka) lived in the U.S. for at least half the time

between April 1995 and the expropriation in 1949. The Commission therefore cannot find that the residency requirement is met as to the parts of the claim owned by claimants Conostas and Botka. Those parts of the claim therefore must be and are hereby denied.

The part of the claim belonging to claimant LLAZARAQ KOSTANDIN remains. Because Mr. Kostandin was living in the United States in April 1995, he satisfies the residency requirement. The Commission therefore has jurisdiction to consider his part of the present claim.

Based on the entire record, the Commission determines that the promulgation of Decree No. 355 by the Albanian government in November 1946 extinguishing loans made prior to 1944, coupled with the actions of the court in returning the apartment here in issue to the debtor, Mr. Cale, had the effect of depriving the claimants of their property, and thereby constituted an uncompensated "intervention, or other taking of, or measures affecting" the claimants' property. Settlement Agreement, Article 1(a). Accordingly, claimant LLAZARAQ KOSTANDIN is entitled to an award of compensation for the resulting loss.

The claimants assert that the apartment had a value at the time of expropriation of approximately 500 gold napoleons and that their share was 250 gold napoleons. This is consistent with the value indicated in the Ownership Certificate, which recites that in 1934 the sale price was 1,000 gold napoleons for the entire building. At the exchange rate then in effect, this was equivalent to \$6,560.00.

Based on its study of the values of various kinds of real property in Albania before and during World War II and thereafter, together with the evidence before it in this case, the Commission finds that the value of the claimants' father's one-half interest in the apartment, which was located in the main square of Korce, was \$3,000.00 at the time of confiscation.

Based on the evidence in the record, the Commission is satisfied that the claimants each had a one-third interest in their father's estate at the time of his death in 1950. Accordingly, the Commission finds claimant LLAZARAQ KOSTANDIN entitled to an award in the principal amount of \$1,000.00 as compensation for his one-third interest in the loss of his father's one-half interest in the apartment. For lack of a precise date, the Commission will deem the taking to have occurred as of November 1, 1946.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission further concludes that the claimant is entitled to interest as part of her award, amounting to 6 percent simple interest per annum from the date of loss to the effective date of the Settlement Agreement. Accordingly, claimant is entitled to an interest award of 290.8 percent of his principal award, or \$2,908.00.

Under the terms of the U.S.-Albania Settlement Agreement, the United States Government has agreed to advise the Albanian authorities of the issuance of the Commission's awards so as to prevent any double recovery. A copy of this decision thus will be forwarded to the Albanian government in due course.

The Commission therefore makes the following award, which will be certified to the Secretary of the Treasury for payment in accordance with sections 5, 7, and 8 of Title I of the ICSCA (22 U.S.C. §§1624, 1626, and 1627).

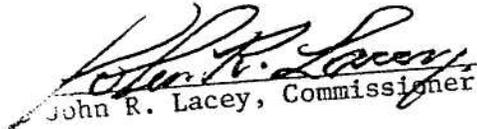
AWARD

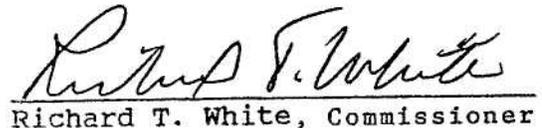
Claimant, LLAZARAQ KOSTANDIN, is entitled to an award in the principal amount of One Thousand Dollars (\$1,000.00), plus interest from November 1, 1946, to April 18, 1995, in the amount of Two Thousand Nine Hundred Eight Dollars (\$2,908.00), for a total award of Three Thousand Nine Hundred Eight Dollars (\$3,908.00).

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


Delissa M. Ridgway, Chair

JAN 28 1997


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).