

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

In the Matter of the Claim of

ARJAN HASBI PUTO
LUIZA KAPSHTICA
KANERINA HASBI QYTETI

Against the Government of Albania

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} Claim No. ALB-100

} Decision No. ALB-293(R)
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AMENDED FINAL DECISION

This claim against the Government of Albania is based upon the confiscation of real and personal property located in the Districts of Sarande, Gjirokaster and Fier.

By Proposed Decision entered on February 24, 1997, the Commission entered an award in favor of KANERINA HASBI QYTETI in the principal amount of \$4,000.00, together with an interest award of \$11,672.00, for her inherited one-fourth share in the claim for the loss of her father's agricultural property. However, the Commission denied the claims of ARJAN HASBI PUTO and LUIZA KAPSHTICA, on the ground that they had provided no information to establish either that they were living in the United States on April 18, 1995, or that their interests in the claim were owned by someone living in the United States for at least half the time between April 18, 1995, and

the date the claim arose, as required 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").

In a letter dated March 31, 1997, claimant ARJAN HASBI PUTO asserted to the Commission that he in fact had been residing in the United States on April 18, 1995, and submitted documentation to support this assertion. Based on that documentation, the Commission issued a Final Decision on April 21, 1997, in which it found that he was also entitled to an award of \$4,000.00 for a one-fourth interest in his father's claim for the loss of his agricultural property, dating from December 12, 1946. In addition, the Commission made an interest award to him of \$11,642.00. However, after careful consideration, the Commission affirmed the denial of LUIZA KAPSHTICA's claim because it did not satisfy the residency requirement in the Agreed Minute to the Settlement Agreement.

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 claimant LUIZA KAPSCHTICA IS now entitled to an award in the principal amount of \$4,000.00 for her share in her father's claim for the loss of his agricultural property. This award shall also date from December 12, 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 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 ICSA (22 U.S.C. §§1624, 1626, and 1627). This constitutes the Commission's final determination in this claim.

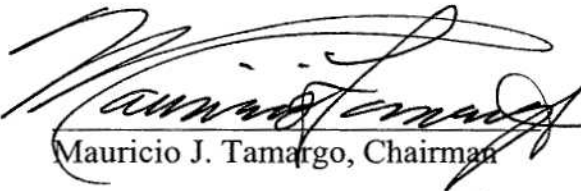
A W A R D

Claimant LUIZA KAPSHTICA is entitled to an award in the principal amount of Four Thousand Dollars (\$4,000.00), plus interest from December 12, 1946, to April 18, 1995, in the amount of Eleven Thousand Six Hundred Seventy-

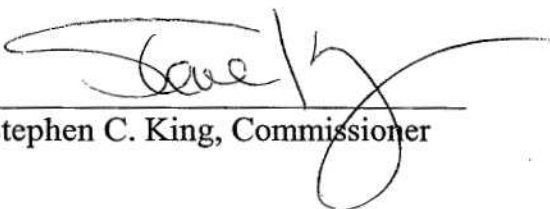
Two Dollars (\$11,672.00), for a total award of Fifteen Thousand Six Hundred
Seventy-Two Dollars (\$15,672.00).

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

JUN 29 2006



Mauricio J. Tamargo, Chairman



Stephen C. King, Commissioner

FOREIGN CLAIMS SETTLEMENT COMMISSION
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In the Matter of the Claim of

ARJAN HASBI PUTO
LUIZA KAPSHTICA
KANERINA HASBI QYTETI

Against the Government of Albania

Claim No. ALB-100

Decision No. ALB-293

Hearing on the record held on April 21, 1997

FINAL DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real and personal property located in the Districts of Sarande, Gjirokaster and Fier.

The Commission's Proposed Decision, entered on February 24, 1997, made an award to claimant KANERINA HASBI QYTETI in the principal amount of \$4,000.00 (plus interest from December 12, 1946 to April 18, 1995, in the amount of \$11,672.00), as compensation for her one-fourth interest in the loss of her father's agricultural property. The Commission denied the claims of ARJAN HASBI PUTO and LUIZA KAPSHTICA because they had provided no information to establish either that they were living in the United States on

April 18, 1995, or that the claim was owned by someone living in the United States for at least half the time between April 18, 1995 and the date the claim arose. The Proposed Decision was sent to the address of these two claimants in Albania, as reflected on the claim forms.

On April 3, 1997, the Commission received a letter from Mrs. Qyteti requesting a copy of the Settlement Agreement between the United States and Albania and also requesting the Commission not to "take other steps regarding" the case.* In addition, by letter dated March 31, 1997, received by the Commission on April 7, 1997, Mr. Puto advised the Commission that he resided in the United States prior to April 18, 1995 and submitted documentation in support of his assertion.

Although not specifically so denominated, the Commission has decided to treat Mr. Puto's letter as an objection to the Proposed Decision. Because he has not requested an oral hearing, the Commission issues this Final Decision based on its de novo review of the evidence in the record.

*On April 11, 1997, Mrs. Qyteti contacted the Commission by telephone and indicated that she now wishes the Commission to finalize her decision.

Based on the Commission's determination in the Proposed Decision of February 24, 1997, and the additional evidence supplied by Mr. Puto in support of his objection, the Commission finds that, like KANERINA HASBI QYTETI, claimant ARJAN HASBI PUTO is entitled to an award for a one-fourth interest in his father's claim for 11.5 hectares of grazing land located in the Lekures region and 14.04 hectares of farmland located in Cuke. Accordingly, ARJAN HASBI PUTO is entitled herein to an award in the principal amount of \$4,000.00, dating from December 12, 1946.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission further concludes that the claimant ARJAN HASBI PUTO is entitled to interest as part of his 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 291.8 percent of his principal award, or \$11,672.00.

The Commission therefore withdraws its denial of the portion of this claim asserted by ARJAN HASBI PUTO and enters the awards set forth below, which will be certified to the Department of Treasury for payment in accordance with sections 5, 7 and 8 of Title I of the International Claims Settlement Act (22 U.S.C. §§ 1624, 1626 and 1627). In all other respects, the Proposed Decision is affirmed.

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 therefore will be forwarded to the Albanian government in due course.

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

A W A R D S

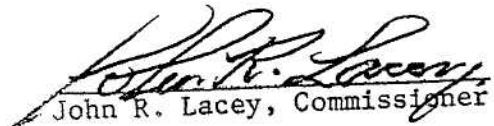
Claimant, KANERINA HASBI QYTETI, is entitled to an award in the principal amount of Four Thousand Dollars (\$4,000.00), plus interest from December 12, 1946, to April 18, 1995, in the amount of Eleven Thousand Six Hundred Seventy-Two Dollars (\$11,672.00), for a total award of Fifteen Thousand Six Hundred Seventy-Two Dollars (\$15,672.00).

Claimant, ARJAN HASBI PUTO, is entitled to an award in the principal amount of Four Thousand Dollars (\$4,000.00), plus interest from December 12, 1946, to April 18, 1995, in the amount of Eleven Thousand Six Hundred Seventy-Two Dollars (\$11,672.00), for a total award of Fifteen Thousand Six Hundred Seventy-Two Dollars (\$15,672.00).

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

APR 21 1997


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner

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 real and personal property which formerly belonged to their father. On the claim form submitted in October 1995, they claim for 25 hectares of grazing land in the Lekures region of Sarande and 14.04 hectares¹ of agricultural/farmland in the village of Cuke, a residence in Sarande and two "neighbour shops" located in the Old Market in Gjirokaster. According to the claimants, these properties were owned by the "Puto Brothers," but their father, Hazbi Refat Puto, was the only one of the brothers who was a citizen of the United States.

In a letter submitted with the claim form, the claimants state that their late father, Hasbi (Hazbi) Refat Puto, who was naturalized as a United States citizen in 1925 and served as Chief of the United Nations Relief and Reconstruction Agency (UNRRA) in southern Albania after World War II, was sentenced to death and executed by the Communist regime as an alleged English-American agent in 1947, and his property, both real and personal, was confiscated. This letter more specifically states that their late father owned 1)

¹Originally, claimants stated that their father's interest in the farm-land was equivalent to 112 hectares of land. They have since indicated that his interest was, in fact, equivalent to 14.04 hectares.

a one-third interest in an 18-room residence in Sarande; 2) 25 hectares of grazing land (now land suitable for construction)²; 3) 112 hectares of farmland (now revised to 14.04 hectares); 4) a one-third interest in five shops in the city of Gjirokaster; 5) a 6.5% interest in a flour plant in the city of Fier; and 6) an unspecified interest in a wholesale trade shop, "partly pillaged" during World War II and partly confiscated in 1945.

In subsequent correspondence with the Commission, claimants advised that the 18-room house in Sarande has been returned to the heirs of the Puto brothers in damaged condition and, under Albanian law, no compensation is allowed for the confiscation of moveable items such as the "inventory stock of a grocery shop in Sarande" and the furnishings of their house. They also stated that the current Albanian government has returned to them stores in Gjirokaster and the flour mill in Fier, and that one hectare of the grazing land belonging to their father and one-half hectare of the same land belonging to their mother have been returned as well.

²The claimants state in their letter that they have demanded the return of this specific property, a portion of which they wish to sell to an American investor for development as a tourist hotel. *

Although not specifically stated, the claimants also appear to seek compensation for the Albanian government's use of their family's properties for 45 years.

In support of their claim, claimants have submitted copies of their father's naturalization certificate; their own United States passports; a certificate of inheritance (identifying claimants and their mother as the heirs of their father, and claimants as the heirs of their mother who died in 1992); a certificate dated 1.04.1996 stating that claimants (as heirs of their father) own 6.861% of a flour mill in Fier; a certificate from the Delvine District Real Estate Office evidencing claimants' father's ownership of one-third of a three-eighths interest in an undivided half-share in 1,000 dynyms (or 125 dynyms) of grazing land in Lekures; a certificate of registration prepared in 1942 indicating that claimants' father was a one-third owner of a one-eighth share of 337 hectares of farmland (in effect, the owner of 14.04 hectares of farmland), as well as four store-houses and 24 small peasant houses near Cuke³; a certificate of ownership reflecting claimants' father's one-third interest in a house (a former tourist hotel) in

³This document was apparently prepared for submission to the "Special Commission for the Damages of the War" in Albania after World War II. Claimants have not sought compensation for the store-houses and peasant houses in this proceeding.

Sarande; a summary of the 1947 verdict of the Military Tribunal of Gjirokaster sentencing claimants' father to death for espionage as an alleged English-American agent, and confiscating all his real and personal property; a summary of a 1947 decision of the Albanian authorities confiscating all real and personal property of claimants' father and a related extract from the records of the Supreme Court of Appeal; evidence of confiscation of the house in Sarande; and evidence of confiscation of the five shops in Gjirokaster.

Unfortunately, as explained in the Commission's letters dated May 17, 1996 and July 10, 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 ARJAN HASBI PUTO and LUIZA KAPSHTICA.

The Commission is constrained to apply the residency requirement to the claims of all dual U.S.-Albanian nationals. In this case, 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.

Claimant KANERINA HASBI QYTETI was living in the United States on April 18, 1995 (the effective date of the Settlement Agreement) and thus satisfies the residency requirement. However, neither of the other claimants was living in the U.S. on that day. Nor did either of the other claimants live in the United States for at least half the time between April 18, 1995 and the dates of expropriation. The residency requirement thus is not satisfied as to those parts of the claim belonging to Mr. Puto and Mrs. Kapshtica. Accordingly, while the Commission sympathizes with Mr. Puto and Mrs. Kapshtica for the loss of their family's property, it cannot find that their parts of the claim are compensable under the terms of the Settlement Agreement. Those parts of the claim therefore must be and are hereby denied. The part of the claim belonging to Mrs. Qyteti remains.

Based on evidence in the record, the Commission determines that all real and personal properties owned by Hazbi Refat Puto were confiscated by the Albanian government as of December 12, 1946, pursuant to Article 4/1, Law No.372. Certificate from the Register of Trials of the High Court of Justice.

The Commission has carefully reviewed the record and the claimants' statement that the 18-room house in Sarande, the stores in Gjirokaster and the flour mill in Fier have been returned to the Puto family. The Commission's

independent investigation in Albania also confirms the return of these properties to the heirs of Hazbi Puto.

There is no evidence in the record to indicate that the claimants or the other heirs of the Puto Brothers have taken any steps to formally renounce the Albanian Commission's decision returning the properties to them. Accordingly, since the U.S.-Albania Settlement Agreement does not permit double recovery by a claimant, the Commission determines that it is precluded from awarding compensation for the claimant's claim for her father's interest in the house in Sarande, the shops in Gjirokaster and the flour mill in Fier. Therefore, this portion of the claim is hereby denied.

Although claimant asserts that she is entitled to compensation for the use by the Albanian government of her family's properties for a period of 45 years, the Commission's practice, consistent with international law, is to award compensation to a claimant for confiscated property, valuing the confiscated property at its "fair market value" as of the time of confiscation. In addition the Commission awards interest to compensate the claimant for his or her loss as a result of the failure of the foreign government in question -- in this case the Albanian Communist regime -- to pay the "prompt, adequate, and effective" compensation it is obligated under international law to pay at the time of the

taking, and the consequent use of those funds after the taking date. When a claimant elects to accept the return of his or her property, the Commission is precluded from making an award unless the value of the property when it is returned is less than its value at the time of taking together with the awardable interest. See, *Claim of ESTATE OF WALTER ALEXANDER*, ClaimNo. G-2886, Decision No. G-1874 (1980). In this case, in the absence of credible evidence of the value of the property when returned, claimant's claim based on loss of use must be denied.

Of the properties claimed for, the grazing land (which the claimants specifically have demanded the return of) and the farmland have not yet been returned to the claimant's family. Claimant has stated that only one hectare of the property belonging to her father has been returned to her family.⁴ The record indicates that claimant's father owned a one-third of a three-eighths interest in an undivided half-share in 1,000 dynyms (or 12.5 hectares) of grazing land in the

⁴The Commission's investigation in Albania has disclosed that the heirs of Hazbi Puto have recently opened three files in Albania with the Commission for the Return of Property and Compensation for the District of Sarande: the first, No. 65/12, is for land; the second, No.43, is for agricultural land, and the third, No.3, is for pasture. All three are currently pending.

Lekures region.⁵ Since one hectare has already been returned to the claimant's family, the Commission finds the claimant entitled to an award for her interest in 11.5 hectares of land. Based on the certificate of inheritance submitted, claimant is entitled to compensation for a one-fourth interest in the claim for her father's property, or the value of 2.87 hectares (7.1 acres) of grazing land.⁶

Evidence in the record further establishes that Hazbi Refat Puto was the owner of a one-third share of a one-eighth interest in 337 hectares of farmland (or 14.04 hectares) located in Cuke, District of Sarande. Claimant is therefore entitled to compensation for her one-fourth interest in her father's share in the claim for that property, or the value of 3.5 hectares (8.7 acres).⁷

In addition, the claimant seeks compensation for the furnishings of her father's house and for the contents of a wholesale trade/grocery shop that was "partly pillaged" during World War II and partly confiscated in 1945. However,

⁵Claimant erroneously asserts that this interest was equivalent to 25 hectares.

⁶To the extent that the claimant's claim is also based on her inheritance of a portion of her mother's estate or her mother's one-quarter interest in her father's estate, the Commission lacks jurisdiction over that portion of the claim because the claimant's mother never acquired U.S. nationality.

⁷The document prepared for the War Claims Commission dated 1942 also indicates that 24 peasant houses and 4 store houses were located on this property. Since the claimant has not specifically asserted a claim for these structures, the Commission makes no determination as to their loss or value.

in the Commission's General War Claims program, claimant ARJAN HASBI PUTO alleged that his father's property--consisting of the furnishings of a residence located in Sarande and the contents of a wholesale store located in Sarande and another store located in Fier-- was looted and destroyed by the German military forces. *Claim of ARJAN PUTO*, Claim No. W-17390, Decision No. W-20797 (1967). That claim was denied for lack of evidence.

Because claimant here submitted no evidence in support of her assertion that the Albanian government was responsible for the loss of her father's household furnishings and for the confiscation of the wholesale store, and in light of her brother's assertions in the War Claims Program that Germany was responsible for those losses, the Commission is unable to find the Albanian government liable. Accordingly, that portion of the claim must also be and is hereby denied.⁸

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

⁸If the claimant can establish that some of the contents of the residence and the store were in fact not destroyed during World War II, as alleged by ARJAN PUTO, and still existed and had some value when the confiscation is said to have taken place by the Albanian government, she should immediately contact the Commission.

claimant's interest in her father's interest in the farmland and grazing land (6.38 hectares or approximately 16 acres) was \$4,000.00 at the time of confiscation. Accordingly, the Commission finds claimant KANERINA HASBI QYTETI entitled to an award in the principal amount of \$4,000.00. This award shall date from December 12, 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 291.8 percent of her principal award, or \$11,672.00.

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 therefore 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).

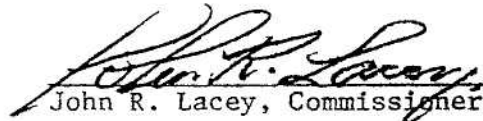
AWARD

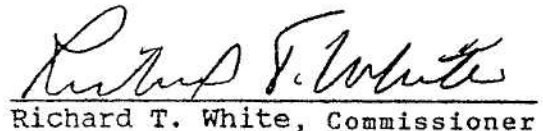
Claimant, KANERINA HASBI QYTETI, is entitled to an award in the principal amount of Four Thousand Dollars (\$4,000.00), plus interest from December 12, 1946, to April 18, 1995, in the amount of Eleven Thousand Six Hundred Seventy-Two Dollars (\$11,672.00), for a total award of Fifteen Thousand Six Hundred Seventy-Two Dollars (\$15,672.00).

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

FEB 24 1997


Delissa M. Ridgway, Chair


John R. Lacey, Commissioner


Richard T. White, Commissioner

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).