

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

In the Matter of the Claim of

DEMIRHAN BACE

Against the Government of Albania

Claim No. ALB-112

Decision No. ALB-249

Hearing on the record held on April 15, 1997

FINAL DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property located in Grace, in the District of Devoll.

By Proposed Decision entered on January 28, 1997, the Commission denied the claim for lack of evidence that either claimant was 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 claimant's address in Albania, as reflected on the claim form.

On March 3, 1997, the Commission received a letter from the claimant from an address in Brooklyn, New York. Although not specifically so denominated, the Commission has decided to treat claimant's letter as an

objection to the Proposed Decision. The claimant has since submitted evidence establishing that she has resided in the United States since March 14, 1994.

Because claimant has not requested an oral hearing, the Commission issues this Final Decision based on its de novo review of the evidence in the record.

Claimant here, a United States national by birth, seeks compensation for 4.15 hectares of land said to have been expropriated by the Albanian government in the agrarian reform of 1945. At that time, according to claimant, the property was owned by her father, Hysni Shaban Shaholli, who was naturalized as a United States citizen in 1927 and died in the United States in 1959.

In support of her claim, the claimant has submitted a Verification of Ownership dated September 26, 1995, issued by the Archives of the Council of Devoll District, which indicates that—as of 1945—claimant's uncle, Skender Ajder Shaholli, was the owner of 8.3 hectares of land in the village of Grace. However, in a statement dated September 24, 1995, Skender Hajder Shaholli avers that the property which is registered in his name was property owned by his father and his uncle, Hysni Shaban Shaholli, claimant's father. He further states that the two had inherited the property prior to World War II.

Based on the entire record, the Commission finds that claimant's late father, Hysni Shaban Shaholli (a national of the United States since his naturalization in 1927), was the owner of real property located in the village of Grace, District of Devoll, consisting of 4.15 hectares (one-half of 8.3 hectares), or about 10.3 acres, of farmland, pasture and vineyard. Although claimant has provided no specific evidence of the date and circumstances of the Communist confiscation, the Commission is aware that, on or about August 29, 1945, the Albanian Communist regime promulgated the "Agrarian Reform Law," which provided that land not directly worked by the owner was subject to seizure and redistribution by the government, without payment of compensation to the legal owner. Land Reform Law No. 108, GZ 1945, No. 39. That law was affirmed by the 1946 Albanian constitution, which stated that "land belongs to the tiller." Alb. Const., 1946, Ch. I, Art. 12.

Based on claimant's statements and the entirety of the record, the Commission determines that implementation of the Agrarian Reform Law, coupled with the restrictions placed upon non-farming owners and the formation of agricultural cooperatives, had the effect of depriving claimant's late father of his property, thus constituting an uncompensated expropriation by the

Government of Albania. In the absence of a more precise date, the Commission will deem the confiscation to have occurred as of August 29, 1945.

The claimant has stated that her father died without a will. The Commission therefore finds that this claim, owned by the late Hysni Shaban Shaholli, devolved upon his death intestate on July 31, 1959, in accordance with the descent and distribution laws of the State of New York, to his wife, an Albanian national, and to the claimant, his only child.

The claimant has generally asserted that the property in question had a value of \$25,140.00 at the time of loss, and that the value of one hectare was equal to \$6,000.00. However, no evidence in support of such valuation has been submitted. Based on its own study of the values of various kinds of real property in Albania before and during World War II and thereafter, the Commission finds that claimant's father's land had a value at the time of expropriation of approximately \$250.00 per acre, or \$2,600.00. Accordingly, claimant is entitled to an award in the principal amount of \$1,300.00 for her one-half interest in her father's claim.

To the extent, however, that claimant's claim is based on her inheritance of her mother's one-half interest in her father's claim upon her mother's death in 1993, the Commission lacks jurisdiction over that one-half interest because it

was not continuously owned by a U.S. national. The claimant has stated that her mother did not acquire United States nationality. Since the Commission lacks jurisdiction over a part of this case, claimant should be entitled to pursue that part of her claim 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 Albanian nationals to pursue and receive compensation, restitution or any other remedy available under the domestic restitution and compensation procedures established by that government.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission further concludes that claimant is entitled to interest as part of her award, amounting to 6 percent simple interest per annum from the date of loss to April 18, 1995 (the effective date of the Settlement Agreement). Accordingly, claimant is entitled to an interest award of 297.8 percent of her principal award, or \$3,741.40.

The Commission therefore withdraws its denial of this claim set forth in the Proposed Decision, and enters the award 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).

Under the terms of the 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 double recovery in a claim. 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.

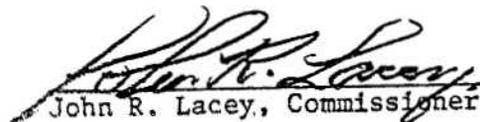
A W A R D

Claimant DEMIRHAN H. BACE is entitled to an award in the principal amount of One Thousand Three Hundred Dollars (\$1,300.00), plus interest from August 29, 1945 to April 18, 1995, in the amount of Three Thousand Seven Hundred Forty-One Dollars and Forty Cents (\$3,741.40), for a total award of Five Thousand Forty-One Dollars and Forty Cents (\$5,041.40).

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

APR 15 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.

Claimant here, a United States national by birth, seeks compensation for 4.195 hectares of land said to have been expropriated by the Albanian government in the agrarian reform of 1945. At that time, according to claimant, the property was owned by her father, Hysni Shaban Shaholli, who was naturalized as a United States citizen in 1927 and who died in the United States in 1959. The claimant further states that she inherited the right to claim for the property upon the death of her father.

Unfortunately, the information provided by claimant to date is not sufficient to establish her right to compensation. It appears that claimant is a dual U.S.-Albanian national, because her father was an Albanian citizen. Under Albanian law, claimant retains Albanian nationality notwithstanding her 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. There is no indication that claimant has ever lived in the United States; and claimant's father died in 1959. Thus, it does not appear that the claim was owned by someone living in the United

States for at least half of the approximately 50 years between April 18, 1995 and the expropriation of the property in 1945.

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 in that she has failed to provide information to establish either that she was 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. 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.

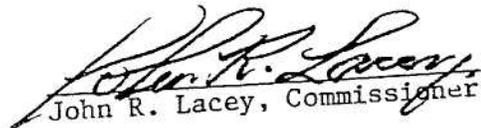
Accordingly, while the Commission sympathizes with claimant for the loss of her family's property, it cannot find -- on the evidence submitted to date -- that this claim is compensable under the terms of the Settlement Agreement. The claim therefore must be and is hereby denied.

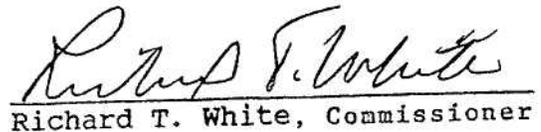
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

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).