

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

In the Matter of the Claim of	}	
	}	
	}	
	}	
EVDHOKSI TOLLKO	}	Claim No. ALB-118
SOTIRAQ VASIL PANI	}	Claim No. ALB-139
	}	
	}	Decision No. ALB-240
	}	
Against the Government of Albania	}	

Hearing on the record held on April 15, 1997

FINAL DECISION

These claims against the Government of Albania are based upon the alleged confiscation of real property located in Dardhe, District of Korce.

By Proposed Decision entered on January 28, 1997, the Commission denied claimants' claim for 770 square meters of real property located in the village of Dardhe, because it determined that, at the time of confiscation (originally alleged to have been December 1, 1962), the property was owned by claimants' grandmother, an Albanian national.

By an undated letter received by the Commission on February 28, 1997, claimant SOTIRAQ PANI stated objection to the Commission's Proposed Decision, asserting that the property at issue in fact was confiscated in June

1963. In support of his assertion, he has submitted a sworn statement by Kristaq Glozheni, averring that he was present on June 7, 1963, when claimants' property was confiscated.

Because no oral hearing has been requested, the Commission issues this Final Decision based on its de novo review of the evidence in the record.

The Commission now has reviewed all the evidence in this case, including the recently submitted document, and finds that claimants' grandmother, Dhoksi Josif Pani (who died in Albania on April 24, 1963), owned four garden plots measuring a total of 770 square meters. Evidence in the file also establishes that the claimants were the only heirs of their grandmother.

Based on the recently submitted evidence, and the enactment of Decree No. 291 which approved the formation of agricultural cooperatives in the Village of Dardhe, the Commission is persuaded that the Government of Albania effectively deprived the claimants of their property, and that the enactment of the decree constituted an uncompensated expropriation by the Government of Albania. Accordingly, claimants are entitled to awards of compensation for the resulting loss. Based on the evidence in the file, the Commission will deem the loss to have occurred as of June 7, 1963.

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The claimants have asserted that one square meter of land was worth \$10.00 in 1963, and that now the cost of one square meter of land is \$100.00 because Dardhe is a "touristic village." However, claimants have not submitted any evidence to support such a valuation. Based on its study of the values of various kinds of real property in Albania before and during World War II and thereafter, the Commission finds that the claimants' property, consisting of 770 square meters (8,288 square feet) (about 0.19 acres) located in the village of Dardhe, had a value at the time of expropriation of \$600.00. Accordingly, each claimant is entitled to an award in the principal amount of \$300.00 as compensation for the loss of his or her share in the property, dating from June 7, 1963.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission further concludes that claimants are entitled to interest as part of their awards, 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, each claimant is entitled to an interest award of 190.5 percent of his or her principal award, or \$571.50.

The Commission therefore withdraws the denial set forth in its Proposed Decision 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).

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 S

Claimant EVDHOKSI TOLLKO is entitled to an award in the total principal amount of Three Hundred Dollars (\$300.00), plus interest from June 7, 1963 to April 18, 1995, in the amount of Five Hundred Seventy-One Dollars and Fifty Cents (\$571.50), for a total award of Eight Hundred Seventy-One Dollars and Fifty Cents (\$871.50).

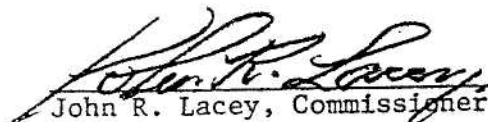
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Claimant SOTIRAQ PANI is entitled to an award in the total principal amount of Three Hundred Dollars (\$300.00), plus interest from June 7, 1963 to April 18, 1995, in the amount of Five Hundred Seventy-One Dollars and Fifty Cents (\$571.50), for a total award of Eight Hundred Seventy-One Dollars and Fifty Cents (\$871.50).

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

APR 15 1997


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner

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PROPOSED DECISION

These claims against the Government of Albania are based upon the alleged confiscation of real property located in Dardhe, 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 claimants herein are claiming for 770 square meters of real property located in the village of Dardhe, District of Korce. They originally asserted that the property which is the subject of their claims was confiscated by the Albanian government in September 1962. Subsequently, however, they asserted that the property was confiscated in December 1963 or June 1963. According to the claimants' original claim forms, the property was owned at the time of confiscation by their father, Vasil Josif Pani; but claimants have submitted evidence that he died in Massachusetts in 1947. On a second claim form (dated

March 28, 1996), claimants have asserted that they themselves were the owners of the property at the time of confiscation.

To establish their father's United States nationality, the claimants have submitted evidence that their father took the oath of allegiance on August 29, 1927. They have also submitted copies of their own United States passports issued in Albania in 1992.

The ownership documents submitted by the claimants indicate that, as of 1950, the property that is the subject of the claims was owned by their grandmother, Mrs. Dhoksi Josif Pani, an Albanian national, who died in Albania on April 24, 1963 (sixteen years after their father's death). There is no evidence of ownership of any property by claimants' father.

By letter dated February 12, 1996 to Mrs. Tollko and by letter dated February 13, 1996 to Mr. Pani, the Commission advised them that claims are compensable under the Settlement Agreement only if the property at issue was owned by a United States national at the time of confiscation. Accordingly, the claimants were advised that unless they could establish that they were the owners of the property at the time of the alleged confiscation in 1962, their claim would not be eligible for compensation.

Following receipt of this letter, claimant SOTIRAQ PANI submitted a revised claim form in which he asserted that the property was confiscated pursuant to Decree No. 291 of December 1, 1963. The Commission's response (dated April 16, 1996) asked claimant to provide some evidence of his and his sister's inheritance from their grandmother, to indicate the percentage of that inheritance and to inform the Commission of their grandmother's date of death, among other things. In reply to this and other communications from the Commission, the claimants submitted evidence that their grandmother died in April 1963. They also submitted a "Declaration" from the Chief of Commune of the village of Dardhe, stating that Decree No. 291, which approved the formation of agricultural cooperatives in the village of Dardhe, went into effect on December 1, 1962.¹

In the absence of more specific evidence, and in view of the specific statement of the Dardhe Chief of Commune concerning Decree No. 291, the Commission must conclude that the property in question was in all likelihood confiscated pursuant to Decree No. 291 on or about December 1, 1962, when

¹The Commission's independent consultant in Albania has verified the accuracy of this decree and its effective date.

that decree took effect. At that time, the property at issue here was owned by Mrs. Dhoksi Josif Pani, an Albanian national.

The ICOSA mandates that the Commission decide claims in accordance with, *inter alia*, "[t]he applicable principles of international law." ICOSA 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).

For this reason, to the extent that claimants inherited through their grandmother, the Commission lacks jurisdiction over this case *unless* their grandmother was a U.S. national. If the Commission lacks jurisdiction over all or any part of this case, however, claimants 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).² 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.

Accordingly, the claims before this Commission must be and are hereby denied.

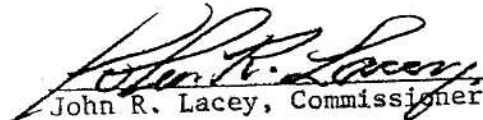
²The Commission's independent consultant in Albania has advised the Commission, in fact, that the Albanian Commission for the Return of or Compensation for Property of the district of Korce has returned at least nineteen square meters of land in the name of Dhoksi Pani to her heirs by Decision No. 518 dated January 27, 1995.

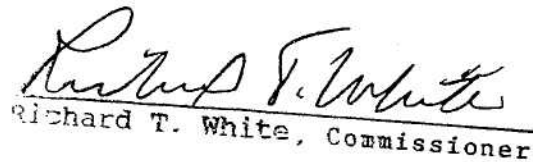
The Commission finds it unnecessary to make determinations with respect to other elements of these claims.

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).

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