

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

In the Matter of the Claim of

ONEDA LLAZAR PANAJOTI
VIKTOR LIGOR PANAJOTI
PANAJOT LLAZAR PANAJOTI

Against the Government of Albania

} Claim No. ALB-130

} Claim No. ALB-131

} Claim No. ALB-132

} Decision No. ALB-267

Oral Hearing held on April 15, 1997.

FINAL DECISION

These claims against the Government of Albania are based upon the alleged confiscation of real and personal property located in the city of Fier.

By Proposed Decision entered on January 28, 1997, the Commission denied claimants' claims for a warehouse (with contents), the contents of a two-story house and damage to that house, and the land on which those structures were built, all of which were said to have been expropriated by the Albanian government in 1945.¹ The claims of ONEDA LLAZAR PANAJOTI and PANAJOT LLAZAR PANAJOTI were denied for failure to prove U.S.

¹Claimants indicated that the house was returned to their family in 1993, but was in an uninhabitable condition.

citizenship. Moreover, as the Proposed Decision further explained, even if ONEDA LLAZAR PANAJOTI and PANAJOT LLAZAR PANAJOTI were U.S. citizens, the residency requirement in the Agreed Minute to the U.S.-Albanian claims agreement would bar their claims. *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"). Similarly, the Commission denied the claim of VIKTOR LIGOR PANAJOTI because -- while it appeared that he is a U.S. citizen -- he had failed to prove that he satisfied the residency requirement.

By letter postmarked April 25, 1997, from Queens, New York, claimants

~~objected to the Proposed Decision,~~² and advised the Commission that their

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. Thus, the Commission has not required claimants to prove, for example, that they learned of the evidence they rely on to support their objection only *after* the Proposed Decision became final, and that due diligence could not have uncovered the evidence sooner.

relative Peter Panajoti would be presenting their objections, representing their interests as well as his own.³ On behalf of the Panajoti family claimants, Mr. Panajoti requested an oral hearing, which was held on April 15, 1997. The hearing is discussed below.

The Commission first addresses the claims of ONEDA LLAZAR PANAJOTI and PANAJOT LLAZAR PANAJOTI. As the Proposed Decision explained, the Settlement Agreement provides only for compensation of "United States nationals." The term "nationals of the United States," in turn, is defined in Title I of the International Claims Settlement Act, as amended, as "persons who are citizens of the United States." Pub. L. 455, 81st Cong., approved March 10, 1950, § 2(c), 64 Stat. 13 (22 U.S.C. 1621).

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.

³The Commission notes that Jani Panajoti (Claim No. ALB-099) and Peter Panajoti (Claim No. ALB-167) also have an interest in the property at issue in these claims.

45 C.F.R. 531.6(d) (1997). Although the Commission's legal staff wrote to claimants on March 24, 1998, reiterating its request for proof of their U.S. nationality, claimants have not responded.

The Commission finds that claimants ONEDA LLAZAR PANAJOTI and PANAJOT LLAZAR PANAJOTI have not met their burden of proof to establish their United States nationality. Under the circumstances, there is no basis on which to change the result reached on their claims in the Proposed Decision. Accordingly, the Commission is constrained to conclude that the denial of their claims must be and hereby is affirmed.

The claim of VIKTOR LIGOR PANAJOTI remains. As noted above, the Proposed Decision denied that claim because he had failed to demonstrate his satisfaction of the residency requirement in the Agreed Minute to the Settlement Agreement.

As the Proposed Decision explained, the residency requirement limits the Commission's jurisdiction over the claims of dual nationals to those cases where either (1) the owner of the claim was domiciled in the United States on April 18, 1995 (the effective date of the Settlement Agreement), or (2) the claim was owned by someone living in the United States for at least half the time between

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the confiscation and April 18, 1995. In the instant case, claimant VIKTOR LIGOR PANAJOTI has now submitted a copy of his U.S. passport, and has attested to the requisite residency in the United States (a fact corroborated by his brother, Peter Panajoti). The Commission thus has jurisdiction over his claim.

At the oral hearing, Peter Panajoti appeared on his own behalf and on behalf of his claimant relatives, restating their claims before the Commission. Specifically, Mr. Panajoti sought compensation for (1) repairs to the house that has now been returned to his family, as well as the household furnishings said to have been confiscated in 1945-1946; (2) the destruction of two warehouses and the confiscation of the underlying land, used for construction of a museum; (3) the contents of four warehouses, assertedly confiscated in 1945; and (4) the confiscation of a paper bag factory, in which his father is said to have had a 50 percent ownership interest.

In support of the claim for compensation for repairs to the family's house, Mr. Panajoti testified that it was returned in damaged condition and required extensive repair. According to Mr. Panajoti, squatters moved into the house and destroyed it after it was released by the Albanian government. Mr. Panajoti was advised, however, that in order to recover for damage to the house, he and his

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brothers would have to establish that the value of the house in its returned state was less than the value of the house when it was taken in 1945 plus interest until its return in 1995. The Commission further noted that Ligor Panajoti -- father of claimants VIKTOR PANAJOTI, Peter Panajoti (Claim No. ALB-167), and Jani Panajoti (Claim No. ALB-099), and grandfather of claimants ONEDA PANAJOTI and PANAJOT PANAJOTI -- attested in the Commission's General War Claims Program that the house was severely damaged by German forces in 1944. Claimants were therefore requested to provide some evidence of the date of confiscation of the house, its condition at that time, and the amount spent to rebuild it after its destruction in 1944 and prior to its confiscation. The Commission also requested some evidence of the current value of a comparable house in Fier.

Second, Mr. Panajoti restated his family's claim for the contents of four warehouses, allegedly confiscated in 1945. Third, Mr. Panajoti stated that the Albanian government built a museum on a portion of the land surrounding the house. In order to build the museum, the government reportedly destroyed two of the four warehouses and took the underlying land. On these points, the Commission requested some evidence of the size of the land taken in order to

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build the museum, some evidence of the value of the two warehouse buildings that were destroyed, some evidence of the value of the confiscated contents of the four warehouses, and some evidence of Ligor Panajoti's ownership of a paper bag factory.

After the oral hearing, by letter dated November 10, 1997, Mr. Panajoti submitted several documents and photographs in support of his family's claims. In that letter, he further advised that the family is no longer claiming for the land taken for the museum, since they have been informed that it may be returned to them.⁴

The Commission has again reviewed the entire record in this matter, including the testimony at the oral hearing and the recently submitted documents and photographs – inter alia, an estimate for the construction of a house similar to the Panajoti family home, an estimate for the repair of the family home to make it habitable, estimates of current construction costs to build two warehouses

⁴As the Proposed Decision in the companion cases indicated, a decision of the Albanian Commission on the Return of Property and Compensation to Former Owners granted claimants' family the right of first refusal to purchase the museum when it is privatized. *Claim of JANI LIGOR PANAJOTI and PETER PIRO PANAJOTI*, Claim Nos. ALB-099 and ALB-167, Decision No. ALB 276 (1997) at n.2.

similar to the two that were destroyed, and an estimate of the value of the contents of the four warehouses.

Unfortunately, the record in this case still will not support an award of compensation for repairs to the family's house. No evidence has been submitted to establish the extent to which the damage to the house occurred *before* the Albanian government released it and squatters moved in. Nor is there any evidence that the Albanian government is responsible for the acts of the squatters. In any event, even if the house was uninhabitable before the squatters moved in, there is no evidence of the condition of the house when it was confiscated by the Albanian government. Nor is there any evidence of the cost of post-War repairs to the house.⁵ There is thus no evidence from which the Commission could determine that the value of the house as released by the Albanian government was less than the value of the house when confiscated, plus interest. Accordingly, there is no basis on which to change the result reached in the Proposed Decision on that portion of the claim.

⁵Although the Panajoti family was requested to provide some evidence of the date of confiscation of the house, its condition at the time and the cost of rebuilding the house after its destruction in 1944 and prior to its confiscation, no such evidence was submitted.

The Commission's independent investigation in Albania and documents submitted by claimants reflect that Ligor Panajoti owned certain warehouses containing paper products, supplies, machinery, and equipment; and that the contents of the warehouses were confiscated on or about June 7, 1945. Although claimants have asserted that two of the warehouses were destroyed in 1963 and have claimed for their destruction as of then, the Commission finds that Ligor Panajoti had no rights to the warehouses after June 1945. Claimant VICTOR LIGOR PANAJOTI is therefore entitled to an award of compensation for his interest in the claims for the confiscation of two of the four warehouses and the confiscated contents of the four warehouses, dating from June 7, 1945.

The Commission has reviewed the photographs and estimates submitted by claimants to establish the value of the two warehouse buildings at issue. According to claimants, the cost of building two similar warehouses now would range between \$6,300.00 and \$18,264.00.⁶ However, they have submitted no evidence as to the value of the warehouses at the time of confiscation. Based on its own study of the values of various kinds of real property in Albania before

⁶Claimants have stated that the two warehouses that were razed measured 24 square meters and 52 square meters respectively, and were 5 meters high.

and during World War II and thereafter, the Commission finds that the two warehouses at issue had a total value of \$8,000.00 in 1945.⁷

The only evidence of the value of the contents confiscated from the four warehouses in June 1945 -- the recent statement of Peter Panajoti -- asserts that the various machines and equipment had a 1945 value of \$12,100.00. However, he has provided no basis for that figure. Nor has he provided any estimate of the value of the processed and unprocessed paper that was confiscated.

In the absence of other credible evidence, using the customary method applied in its General War Claims Program, the Commission finds that the value of the confiscated machinery, equipment, and paper products and other supplies was equivalent to approximately 25 percent of the value of the four warehouses in 1945, or \$8,750.00. According to the documentation submitted by claimants, Ligor Panajoti was a half owner of that property. Thus, his interest in the claim for the contents of the warehouses had a value of \$4,375.00 at that time.

Claimants have submitted no new evidence in support of their claims for the loss of household furnishings and a half interest in a "sizeable" paper-bag

⁷The Commission has estimated the 1945 value of the four warehouses at approximately \$35,000.00, noting that two of the warehouses are said to have measured approximately 260 square meters.

factory. Under the circumstances, there is no basis on which to change the result reached on those parts of the claim in the Commission's Proposed Decision.

The Commission notes that Ligor Panajoti died intestate in the state of Connecticut in 1971 and was survived by his wife, Antigoni Panajoti, and four sons (including claimant VIKTOR LIGOR PANAJOTI). Based on the intestate succession law of Connecticut, VIKTOR LIGOR PANAJOTI is thus entitled to compensation based on his ownership of a one-fifth interest in his father's claim.

For the reasons set forth above, the Commission concludes that claimant VIKTOR LIGOR PANAJOTI is entitled to an award of \$875.00 for his interest in the contents of the four warehouses (dating from June 7, 1945), and an award of \$1,600.00 for his interest in the two warehouses (also dating from June 7, 1945).

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission further concludes that claimant VIKTOR LIGOR PANAJOTI is entitled to interest as part of his 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,

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claimant is entitled to an interest award of 299.2 percent of his principal award of \$2,475.00, or \$7,405.20.

The Commission therefore withdraws the denial of the claim of VIKTOR LIGOR PANAJOTI entered in its Proposed Decision and instead 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 ICSA (22 U.S.C. §§ 1624, 1626 and 1627). In all other respects, the Proposed Decision is affirmed.

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 any 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 these claims.

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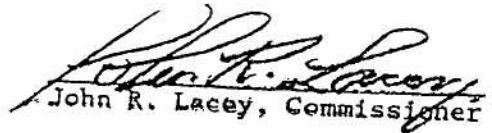
A W A R D

Claimant VIKTOR LIGOR PANAJOTI is entitled to an award in the principal amount of Two Thousand Four Hundred Seventy-Five Dollars (\$2,475.00), plus interest from June 7, 1945 to April 18, 1995, in the amount of Seven Thousand Four Hundred Five Dollars and Twenty Cents (\$7,405.20), for a total award of Nine Thousand Eight Hundred Eighty Dollars and Twenty Cents (\$9,880.20).

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


Delissa A. Ridgway, Chair

MAY 4 1998


John R. Laeey, Commissioner


Richard T. White, Commissioner

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} Claim No. ALB-130

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} Decision No. ALB-267

Against the Government of Albania

PROPOSED DECISION

These claims against the Government of Albania are based upon the alleged confiscation of real and personal property located in the city of Fier.

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 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 6
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

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least half the period of time between the date the property was expropriated and April 18, 1995.

Claimants here seek compensation for a warehouse (with contents), the contents of a two-story house and damage to that house, and the land on which those structures were built, all said to have been expropriated by the Albanian government in 1945.* At the time of expropriation, according to claimants, the properties were owned by Ligor Panajoti, who was naturalized as a U.S. citizen in 1921. Claimants further state that, upon his death, the claim to those properties was inherited by his sons, Llazar Panajoti (the father of claimants ONEDA LLAZAR PANAJOTI and PANAJOT LLAZAR PANAJOTI) and claimant VIKTOR LIGOR PANAJOTI. ONEDA LLAZAR PANAJOTI and PANAJOT LLAZAR PANAJOTI are asserting their claims as heirs of their late father.

Unfortunately, the information provided by claimants to date is not sufficient to establish their right to compensation.

It is not clear whether claimants ONEDA LLAZAR PANAJOTI and PANAJOT LLAZAR PANAJOTI are U.S. citizens. If they are not, their

*Claimants indicate that the house was returned to their family in 1993, but was returned in an uninhabitable condition.

claims must be denied for that reason. As discussed above, the Settlement Agreement provides only for compensation of "United States nationals." The term "nationals of the United States," in turn, is defined in Title I of the ICSA, as amended, as "persons who are citizens of the United States." Pub. L. 455, 81st Cong., approved March 10, 1950, § 2(c), 64 Stat. 13 (22 U.S.C. 1621).

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 claimants ONEDA LLAZAR PANAJOTI and PANAJOT LLAZAR PANAJOTI have not met their burden of proof to establish their United States nationality. In the absence of such evidence, the Commission is unable to find their claims compensable under the Settlement Agreement.

But even if ONEDA LLAZAR PANAJOTI and PANAJOT LLAZAR PANAJOTI were U.S. citizens, the residency requirement discussed above would still prevent the Commission from considering their claims. The residency requirement also bars the claim of VIKTOR LIGO PANAJOTI.

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To the extent that claimants are U.S. citizens (as VIKTOR LIGOR PANAJOTI appears to be), they are dual U.S.-Albanian nationals, because their fathers were Albanian citizens. Under Albanian law, claimants retain Albanian nationality even if they also have U.S. nationality.

If claimants are dual U.S.-Albanian nationals, the Commission is constrained to apply the residency requirement. However, there is no evidence that any of the claimants were living in the United States on April 18, 1995. Nor is there any evidence that their respective claims were owned by someone living in the United States for at least half of the approximately 50 years between the confiscation in 1945 and the effective date of the Settlement Agreement, April 18, 1995. In the absence of such evidence, the Commission cannot find that the residency requirement is satisfied and thus cannot assert jurisdiction over these claims.

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

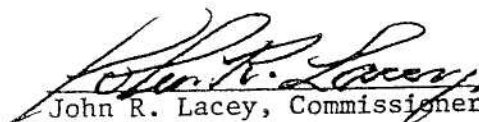
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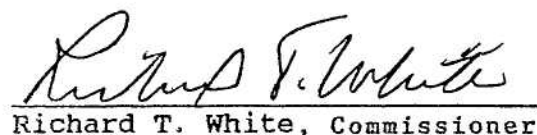
The Commission finds it unnecessary to make determinations with respect to other elements of these claims.

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

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).

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