

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

In the Matter of the Claim of	}	
	}	
	}	
	}	
HERIKLIA ZOTO	}	Claim No. ALB-178
NEFSIKA IKONOMI	}	
ALEKSANDRA ZOTO	}	Decision No. ALB-200(R)
LILJANA SALI	}	
ANETA IKONOMI	}	
	}	
Against the Government of Albania	}	

AMENDED FINAL DECISION

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

In a Final Decision issued on December 15, 1998, the Commission entered awards in favor of NEFSIKA IKONOMI, ALEKSANDRA ZOTO, and LILJANA SALI in the principal amount of \$6,515.70 each, along with interest awards in the total amount of \$13,894.82 each, based on their inherited one-sixth shares in the claim for the loss of their father's real and personal property as of December 31, 1944, December 25, 1946, August 16, 1951, April 9, 1967, and June 25, 1981. However, the Commission denied the claims of HERIKLIA ZOTO and ANETA IKONOMI because they did not 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 dates the claims 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").

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 HERIKLIA ZOTO and ANETA IKONOMI are now entitled to awards in the principal amount of \$6,515.70 each for their respective shares in their father's claim for the loss of his real and personal property in Fier, dating from the loss dates set forth above.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission also concludes that these claimants are entitled to interest as part of their awards, amounting to 6

percent simple interest per annum from the loss dates set forth above to April 18, 1995 (the effective date of the settlement agreement). Accordingly, each claimant is entitled to an interest award totaling \$13,894.82.

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.

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 ICOSA (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 HERIKLIA ZOTO is entitled to an award in the principal amount of Six Thousand Five Hundred Fifteen Dollars and Seventy Cents (\$6,515.70), plus interest on \$55.70 from December 31, 1944, to April 18, 1995, in the amount of One Hundred Sixty-Eight Dollars and Ten Cents (\$168.10); and interest on \$758.33 from August 16, 1951, to April 18, 1995, in the amount of One Thousand Nine Hundred Eighty-Seven Dollars and Fifty-Eight Cents (\$1,987.58); and interest on \$1,666.67 from April 9, 1967, to April 18, 1995, in the amount of Two Thousand


Eight Hundred One Dollars and Sixty-Seven Cents (\$2,801.67); and interest on \$2,701.67 from December 25, 1946, to April 18, 1995, in the amount of Seven Thousand Eight Hundred Thirty-Two Dollars and Fourteen Cents (\$7,832.14); and interest on \$1,333.33 from June 25, 1981, to April 18, 1995, in the amount of One Thousand One Hundred Five Dollars and Thirty-Three Cents (\$1,105.33), for a total interest award of Thirteen Thousand Eight Hundred Ninety-Four Dollars and Eighty-Two Cents (\$13,894.82), and a total award of principal and interest in the amount of Twenty Thousand Four Hundred Ten Dollars and Fifty-Two Cents (\$20,410.52).

Claimant ANETA IKONOMI is entitled to an award in the principal amount of Six Thousand Five Hundred Fifteen Dollars and Seventy Cents (\$6,515.70), plus interest on \$55.70 from December 31, 1944, to April 18, 1995, in the amount of One Hundred Sixty-Eight Dollars and Ten Cents (\$168.10); and interest on \$758.33 from August 16, 1951, to April 18, 1995, in the amount of One Thousand Nine Hundred Eighty-Seven Dollars and Fifty-Eight Cents (\$1,987.58); and interest on \$1,666.67 from April 9, 1967, to April 18, 1995, in the amount of Two Thousand Eight Hundred One Dollars and Sixty-Seven Cents (\$2,801.67); and interest on \$2,701.67 from December 25, 1946, to April 18, 1995, in the amount of Seven Thousand Eight Hundred Thirty-Two Dollars and Fourteen Cents (\$7,832.14); and

interest on \$1,333.33 from June 25, 1981, to April 18, 1995, in the amount of One Thousand One Hundred Five Dollars and Thirty-Three Cents (\$1,105.33), for a total interest award of Thirteen Thousand Eight Hundred Ninety-Four Dollars and Eighty-Two Cents (\$13,894.82), and a total award of principal and interest in the amount of Twenty Thousand Four Hundred Ten Dollars and Fifty-Two Cents (\$20,410.52).

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

JUL 27 2006



Mauricio J. Tamargo, Chairman



Stephen C. King, Commissioner

By letter dated February 17, 1997, claimant HARIKLIA ZOTO objected to the Amended Proposed Decision and advised the Commission that her three sisters, Nefsika Zoto, Aleksandra Zoto and Liljana Sali, all United States citizens, had resided in the United States since 1992 and 1993 and that they also objected to the Commission's Amended Proposed Decision. Shortly thereafter, claimant's three sisters contacted the Commission and requested to be considered as co-claimants. Additionally, by letter received at the Commission on July 17, 1997, claimant's other sister, Aneta Ikonomi, also contacted the Commission regarding the claim. Based on these submissions, the Commission now includes NEFSIKA ZOTO, ALEKSANDRA ZOTO, LILJANA SALI and ANETA IKONOMI as co-claimants in this claim.

By letter received at the Commission on March 18, 1997, claimants requested an extension of time in which to submit additional evidence. Because the Commission expected to complete its adjudication of the Albanian claims by April 15, 1997, and because this claim consisted of multiple parts, an oral hearing was scheduled for April 15, 1997, to allow claimants an opportunity to present their objection, supporting evidence and testimony. However, due to delays experienced by the Commission's independent consultant in Albania in completing his investigation of claimants' and other claims, because of the political unrest in the country, the hearing was canceled and further consideration

of the claimants' claim was held in abeyance until May 11, 1998, when the Commission advised the claimants in a letter of that date that a new hearing had been scheduled for June 15, 1998.

At the oral hearing, claimants ALEKSANDRA ZOTO, NEFSIKA IKONOMI and LILJANA SALI appeared on their own behalf to explain their multi-part claim. They stated that their father became a United States citizen in 1925 and died in Albania in 1951. At the time of his death, he was survived by his wife, Afrovita Zoto, an Albanian national, and his five daughters, the claimants.

As a preliminary matter and before reaching the merits of the claim, the Commission reiterates that the claimants have established their father's United States citizenship as well as their own. However, as held in the Amended Proposed Decision, claimant HARIKLIA ZOTO did not meet the residency requirement of the Settlement Agreement, and her claim must remain denied. Similarly, claimant ANETA IKONOMI has advised the Commission that she did not commence residing in the United States until early 1997, and therefore also does not meet the residency requirement because there is no evidence that she was living in the United States on April 18, 1995 (the effective date of the Settlement Agreement). Accordingly, ANETA IKONOMI's claim for her share in her father's claim must also be and is hereby denied. As for the remaining

claimants, NEFSIKA IKONOMI, ALEKSANDRA ZOTO and LILJANA SALI, the Commission determines, based on the evidence submitted, that each claimant is entitled to claim for a one-sixth share in their father's claim.¹

As to the merits of the claim, Claim No. 1 is for damage caused by German occupation forces in October 1944. According to the claimants, a two-story shop and its contents, including building materials and farm equipment, was destroyed. (The shop itself apparently belonged to someone else). Claimants are claiming \$3,004,812.00 for this loss. However, because the Commission no longer has the statutory authority to accept claims based on losses suffered during World War II,² this portion of the claim must and is hereby denied.

Claim No. 2 is for 1,019 Albanian francs held in a bank account in the name of Kostandin Zoto (claimants' father) at the Albanian National Bank, which claimants assert was transferred to the Albanian State Bank on December 31, 1944. In support of Claim No. 2, claimants have submitted a document from the Albanian National Bank which indicates that on December 31, 1944, the monies held in their father's account, equivalent to 1,019 Albanian francs, were

¹Claimants have submitted a copy of a document entitled "Inheritance Act" dated May 28, 1951, which indicates that their father, Kostandin Zoto, died in Albania on March 4, 1951, that he was survived by his wife, Afrovita, and his five daughters, and that they were all recognized as his heirs.

²That authority expired on January 15, 1965. See 50 U.S.C. App. 2017.

deposited in or returned to the Albanian State Bank. At the oral hearing, the claimants testified that the funds in their father's bank account were transferred from the Albanian National Bank and deposited in the Albanian State Bank which by then was the official organ of the new Albanian government that took power in November 1944.

The Commission has reviewed the evidence, both oral and written, pertaining to this portion of the claim and determines that the bank account belonging to Mr. Zoto was effectively confiscated when it was transferred to the Albanian State Bank. Accordingly, each of the eligible claimants is entitled to an award of compensation for her one-sixth share in the claim for the resulting loss, dating from December 31, 1944.

Claimants assert a value of \$3,402.00 for the 1,019 Albanian francs. However, the Commission's currency charts show that in 1944 the value of one Albanian franc equalled US \$0.328.³ Accordingly, the Commission finds that the funds in the bank account in question had a value at the time of confiscation of \$334.23, and that each claimant is entitled to an award of \$55.77 for her share in this loss. These awards shall date from the date of confiscation, namely, December 31, 1944.

³American International Investment Corp., *World Currency Charts*, Eighth Edition, 1977.

Claim No. 3 is for gold and silver coins allegedly confiscated from claimants' mother in August 1951. In support of this portion of the claim, claimants have submitted two documents, one dated August 16, 1951, and one dated February 2, 1953, which purport to establish that certain gold and silver coins valued at 125,132 Albanian francs were confiscated from claimants' mother. At the oral hearing, the claimants testified that although the coins were taken while in their mother's possession, the coins in reality belonged to their father who had died in March 1951.

The Commission has carefully reviewed the evidence, both oral and written, pertaining to this portion of the claim, and determines that Report No. 70 dated August 16, 1951 evidences an effective confiscation of gold and silver coins owned by Kostandin Zoto through being placed in the custody of the Albanian State Bank. Accordingly, each of the eligible claimants is entitled to an award of compensation for her one-sixth share in the claim for the resulting loss.

As for valuation, the Commission notes that claimants assert a value of \$262,989.00 for this portion of the claim.⁴ However, the Albanian State Bank

⁴Claimants have calculated the coins to have been the equivalent of 2286.863 grams of gold, which they value at \$11.50 per gram. However, they have submitted no evidence to support their valuation.

assigned a value of 125,132 Albanian francs to the coins in question as of February 1953. On the bank statement, one gold napoleon is said to have been equivalent to 326 Albanian francs. At the pre-World War II exchange rate, this would have been equivalent to over \$106.00. However, the Commission's currency charts show that before World War II, the napoleon's value was \$6.56 (\$1.00 was equal to 3.05 francs, and 1 napoleon equaled 20 francs). The currency charts further indicate that in 1946, the franc was revalued at the rate of 5 "old francs" to 1 "new franc," and that after August 1947 5.5 "new francs" equaled \$1.00. Accordingly, between 1947 and 1965, 27.5 "old francs" was equal to \$1.00. In view of these facts, the Commission must assume, and accordingly finds, that the valuations by the Albanian State Bank were expressed in terms of old Albanian francs. Applying the exchange rate of 27.5 francs to \$1.00, the Commission therefore finds that the gold and silver coins in question had a value at the time of confiscation of \$4,550.00, and that each claimant is entitled to an award of \$758.33 for her share in this loss. These awards shall date from the date of confiscation, namely, August 16, 1951.

Claim No. 4 is for 200 Albanian francs said to have been paid by claimants' father as a "contribution" to a school in January 1946. Claimants assert that this "contribution" was an "extraordinary" tax imposed by the Albanian authorities on individuals who traded with "foreigners" during the years

1939 through 1944. Subsequent to the oral hearing, claimants submitted a copy of an "Official Newspaper" dated January 23, 1945, detailing the nature and amount of the extraordinary tax imposed by the Albanian government as well as a copy of a receipt which shows that Kostandin Zoto paid 200 Albanian francs as a contribution to a "unique school".

The Commission has carefully reviewed these documents and has noted claimants' testimony at the oral hearing regarding the imposition of extraordinary taxes on certain individuals during the years 1939 through 1944. However, on the basis of the evidence submitted, the Commission is not persuaded that the initiation and imposition of such a tax and the payment of 200 Albanian francs by claimants' father amounted to a confiscation by the Albanian government. Accordingly, this portion of the claim must be and is hereby denied.

Claim No. 5 now is said to be a claim only for the two warehouses (titled in the name of Afrovita Zoto) which were allegedly confiscated in 1967. (This claim also overlaps with Claim No. 8 to be discussed below).⁵ Claimants assert that the warehouses originally belonged to their father, and that in 1981 the two already-confiscated warehouses and a two-story building nearby were demolished

⁵Originally, the claimants appeared to be claiming for the contents of the warehouses which they had stated contained mostly construction supplies. At the oral hearing, however, they stated that Claim No. 5 was a claim for the "structure of the warehouses" that were demolished in 1981.

and offices built in their place. At the oral hearing, claimants stated that the two warehouses were built by Kostandin Zoto in 1938 at a cost of 1449 gold francs and have asserted a value of \$9,642.00 for the two warehouses.⁶

The Commission has reviewed the documents submitted in support of this claim, consisting of a "Verification" dated August 18, 1993, which states that two warehouses were effectively confiscated by the Albanian government on April 9, 1967, and ultimately demolished in 1981. Based on the totality of the evidence in the record as well as claimants' testimony at the oral hearing, the Commission determines that claimants are entitled to compensation for the resulting loss.

The Commission has reviewed the photographs and estimates submitted by claimants to establish the value of the two warehouse buildings. According to claimants, the warehouses were built in 1938 for a cost 1449 "franga ari,"

⁶By letter dated June 6, 1998, claimant ALEKSANDRA ZOTO indicated that she wished the Commission to only "review the value of the buildings not the value of the land on which the warehouses were built." At the oral hearing, there was conflicting testimony as to whether the underlying land had been or was being returned. The Commission notes that by letter received at the Commission on July 5, 1996, claimant HARIKLIA ZOTO stated that by court decision in Albania 1017 square meters of land was either being returned to the family or compensation was being paid therefor. This figure would appear to include the 405 square meters of land on which the warehouses formerly stood.

which would have been equivalent to \$475.00.⁷ Claimants have also estimated a value of \$9,642.00 but do not indicate the year of this valuation. However, they have submitted no evidence as to the value of the warehouses in 1967 when the warehouses were confiscated.

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 the two warehouses, located on approximately 405 square meters of land, had a combined value of \$4,000.00 in 1967, the year they were originally confiscated. Accordingly, claimants are each entitled to an award of \$666.67 for their interests in the claim for the confiscation and ultimate demolition of the structure of the two warehouses. These awards shall date from April 9, 1967, the original date of confiscation.

Claim No. 6 originally appeared to be a claim for blocked goods, cash confiscated between June and December 1946, and taxes or penalties assessed in 1946 for claimants' father's wartime trading activities during 1939 through 1944.

However, at the hearing, claimants stated that their claim now is for that portion of the blocked goods that were detained in their father's two warehouses and which were taken by the Albanian government as needed during 1946.

⁷According to the Commission's currency charts, between 1933 and 1945, 3.05 franc ari were equal to \$1.00.

Claimants have submitted evidence from which it can be inferred that during 1946, on several occasions, the Albanian government took for its own use a portion of the goods belonging to Mr. Zoto. The documents entitled "Report" suggest that the "Enterprise" (the Albanian government) acknowledged its debt to claimants' father for a portion of the goods it had impounded. Specifically, in support of this portion of their claim, claimants have submitted documents which indicate that on June 29, 1946, certain goods having a value of 149,812.25 francs were detained by the Albanian government. After subtracting a 40% fee or tax, the government acknowledged that it owed Mr. Zoto the sum of 89,987.35 francs. On October 17, 1946, woolen goods belonging to Kostandin Zoto having a value 3,074.96 francs were placed in State warehouses. The State acknowledged that it owed him the sum of 3,074.96 francs. On October 26, 1946, the State took into its custody certain goods having a value of 8,157.36 francs and it acknowledged that it owed Mr. Zoto the same amount. Similarly, on December 25, 1946, a representative of the State took possession of certain plumbing material and acknowledged that the State owed Mr. Zoto the sum of 880.72 francs.

The Commission has reviewed the evidence submitted in support of this portion of the claim. It finds that the documents entitled "Report" suggest that the "Enterprise" (the Albanian government) acknowledged its debt to claimants'

father for a portion of the "blocked goods".⁸ Because it is unlikely that during 1946 and thereafter, the State would have satisfied its obligation to the claimants' father, the Commission finds claimants entitled to compensation for the resulting loss. The Commission calculates the amount owed to claimants' father to have been 102,100.39 francs or \$10,210.00, and finds each claimant entitled to an award of \$1,701.67 for her share in this loss.⁹ These awards shall date from December 25, 1946, the last date that the Albanian government acknowledged its debt.

Claim No. 7 is a claim for money claimants' father may have had in a bank account. Claimants assert that, since 1939, their father regularly had the equivalent of 100,000 gold francs in his bank account. They further state that in December 1944, their father's account showed a balance of only 1,019 Albanian francs. (Claim No. 2, *supra*). As a result, they claim for the remaining 98,981 Albanian francs that they believe should have been in their father's account. However, the only supporting document submitted consists of a letter dated October 18, 1946, which seems to suggest that Mr. Zoto had paid certain

⁸At the oral hearing, claimants stated that they were claiming only for that portion of the claim for which they had evidence to submit.

⁹During 1945 to 1946, 10 Albanian francs equaled \$1.00.

taxes, that he still had money left in his account, and that in 1939, he had had 100,000 gold francs as capital. At the oral hearing, claimants stated that while they suspected that the Albanian government must have taken possession of the content of the bank account, they had no evidence to support their assertion.

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) (1997).

The Commission finds that the claimants have not met the burden of proof in that they have failed to submit supporting evidence to establish that in 1946, their father had 100,000 gold francs in his bank account which was confiscated by the Albanian government. In the absence of such evidence, the Commission must conclude that this portion of claimants' claim is not compensable under the terms of the Settlement Agreement. The claim therefore must be and is hereby denied.

Claim No. 8 is for the confiscation of a two-story residence, two warehouses, and another two-story building consisting of stores and shops on the ground floor and an apartment above the stores. At the oral hearing, claimants acknowledged that the claim for the confiscation of the two warehouses was covered under Claim No. 5. They testified that the family residence, referred to

as the "red brick house," was a two-story house, built in 1939, which was confiscated in 1948 and thereafter used by the military.¹⁰

The claimants were advised that since the house was being returned to the family, it was unlikely that the Commission could find them entitled to compensation. In response, they rephrased their claim as one for loss of use between 1948 and its return. The Commission explained, however, that in order to recover for loss of use and damage to the house, the family 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 1948 plus interest until its return.¹¹ The claimants have not done so. Consequently, there is no evidence from which the

¹⁰Pursuant to a court decision that has already been rendered in Albania, this house and the surrounding land is to be or has already been returned, and the claimants at the oral hearing indicated that they did not wish to claim for it since it was being returned to family members in Albania. Accordingly, the Commission makes no determination as to the merits of this portion of the claim. The Commission is aware that, subsequent to the hearing, the eligible claimants have advised that they wish to proceed with their claim for compensation before the Commission rather than in Albania. However, since the Albanian court has already made its judgment regarding the return of the residence, there is no basis for a favorable determination on that portion of the claim. Claimants' claim for loss of use of the house will be discussed later in this decision.

¹¹The Commission notes that the claimants have submitted repair estimates for the years 1986-1990. Presumably this estimate refers to the work needed to be done on the residence. However, no other estimates have been submitted from which the Commission could determine the value of the house at the time of confiscation or the value of the house when it was returned.

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 make an award for this portion of the claim, and its is hereby denied.

As to the other two-story building consisting of both the stores and the apartment, the claimants explained at the oral hearing that the stores were located on the first floor of the two-story building ("the white house"), that the second floor was used as an apartment by the family after confiscation of the red brick house, and that the warehouses were located nearby. Claimants further asserted that until 1967 rent was paid to them for the stores, but that the rental payments ceased when the government confiscated the stores. However, the family continued to live on the second floor until 1981 when the entire building as well as the nearby warehouses were destroyed to make room for a new structure.

Based on the evidence in the record, including claimants' testimony, the Commission determines that the stores located on the first floor of the white house were effectively confiscated in 1967 and actually demolished in 1981. The Commission also finds that the second floor apartment was confiscated on June 25, 1981, pursuant to Decision No. 106 of the same date. Accordingly, claimants are entitled to compensation for the confiscation of the entire building, part of which took place in 1967 and part in 1981.

Decision No. 106 gives various estimates as the value of the building with which the claimants disagreed at the oral hearing. However, they have provided no independent objective evidence as to the value or the purchase price of this building.¹² 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 the stores, located on 190 square meters of land, had a value of \$6,000.00 in 1967, the year they were originally confiscated, and that the second-story apartment had a value of \$8,000.00 in 1981. Accordingly, each claimant is entitled to awards of \$1,000 and \$1,333.33 for her share in these losses. The portion of the awards for the stores shall date from April 9, 1967, and the portion of the awards for the apartment shall date from June 25, 1981.

Claim No. 9 is a claim for confiscated farm equipment and parts. At the oral hearing, claimants stated that these items were also confiscated from the family and should have been included as part of Claim No. 6 (blocked goods) but because they represented "different types of goods", the claim was not included

¹²At the oral hearing, claimants testified that the Albanian government compensated the family in the amount of 1186 lek (\$11) and asserted that the building had an approximate value of 700,000 lek (equivalent to \$70,000) at the time. They appear to be claiming \$120,173.00 and \$87,582.00 for their losses, but they have provided no evidence to support these figures.

with Claim No. 6. In support of their claim, they have submitted an undated inventory of farm equipment, parts and supplies. At the hearing, claimants testified that although the inventory appears to be undated, the inventory is signed by an official of the "state enterprise" which would indicate that the Albanian government took control of the items shortly after it came into power.

Based on claimants' statements and the entirety of the record, the Commission finds that the claimants' father was deprived of the farm equipment and supplies in his possession by the Albanian Communist regime, and that this action constituted an uncompensated expropriation by the Government of Albania. In the absence of a more precise date, the Commission will deem the expropriation to have occurred as of December 25, 1945, when the "Enterprise" last acknowledged its debt to Mr. Zoto.

Claimants have asserted a value for the items of \$324,833.00. However, this figure is unsupported and appears to be grossly exaggerated. Based on its own valuation of similar items in 1946, the Commission determines the value to have reasonably amounted to \$6,000.00. Accordingly, each claimant is entitled to an award of \$1,000 for her share in this loss, dating from December 25, 1946.

Claim No. 10 is asserted for three separate assessments of "unusual" taxes allegedly paid by their father. Claimants again rely on Decision No. 6 of May 3, 1946, which suggests that for his trade activity between 1939 and 1944, their

father was assessed 143,000 francs as "extraordinary taxes". According to the claimants, their father was also assessed an additional 270,000 Lek and 500,000 Albanian Lek.¹³

Claimants testified that when the new Albanian government came into power in December 1944, it calculated the value of all the property owned by Mr. Zoto. Later, the government is said to have enacted into law a series of "unusual taxes and assessments" on "wealthy" people who had conducted trade during the war years. When the government allegedly valued Mr. Zoto's property as of December 31, 1944, the value of the goods in the warehouses was said to have been 348,810 Albanian francs. But because the government included all his other assets in its calculation, it allegedly assessed him for 143,000 Albanian francs. However, claimants did not indicate what the amount should have been.

As previously noted, claimants also contended that in addition to paying the 143,000 Albanian francs as taxes, their father made two additional payments

¹³At the oral hearing, claimants argued that the assessment apparently was made not just on their father's earnings or income, as it should have been, but that all his real property and cash on hand was also included for a total value of 540,000 francs. Claimants contend that this was not fair or proper and that he should have only had to pay the "extraordinary taxes" based on his income alone.

in the amounts of 270,000 Lek and 500,000 Lek. According to the claimants, Mr. Zoto paid more than the required amount of 143,000 francs, namely that he paid an additional 770,000 Lek. They testified that their father paid the required taxes little by little and they contend that these unusual taxes on trading activity during the war years amounted to confiscation.

At the oral hearing, claimants were advised that they had the burden of establishing that the taxes were in fact paid and that the taxes were confiscatory in nature.¹⁴ As noted above (see Claim No. 4), subsequent to the oral hearing, claimants submitted a copy of the Albanian law providing for collection of taxes during the war years. The Commission has reviewed the evidence and notes that extraordinary taxes apparently were imposed on war revenues. However, it is not persuaded on the basis of this document that the taxes were confiscatory in nature insofar as the claimants' claim is concerned. Accordingly, this portion of their claim must be and is hereby denied.

Finally, claim No. 11 is a claim for \$1,235,409.00 which claimants assert is the amount of their lost business profits and rent from their properties.¹⁵

¹⁴Although it appears that Mr. Zoto made two payments (of 47,667 francs and 9,534 francs) in 1946, these payments do not add up to the alleged tax amounting to 143,000 francs.

¹⁵This claim is similar to the claim asserted for the loss of use of their residence under Claim No. 8.

The Commission again advised the claimants, that in order to recover for loss of profits or rent for the various buildings, they would bear the burden of proof in establishing the amount of rental income or profits that they used to receive from those sources. The Commission also again explained that the award of interest as to a particular portion of the claim was, in effect, to compensate for such losses. The claimants have not submitted any evidence from which the Commission could determine the amount of any such rent or profits. There is thus no basis on which to make an award for this portion of the claim, and it accordingly is also denied.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission further concludes that each 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, each claimant is entitled to an interest award of 301.8 percent of her award of \$55.70, or \$168.10; an interest award of 262.1 percent of her award of \$758.33, or \$1,987.58; an interest award of 168.1 percent of her award of \$1,666.67, or \$2,801.67; an interest award of 289.9 percent of her award of \$2,701.67, or \$7,832.14; and an interest award of 82.9 percent of her award of \$1,333.33 or \$1,105.33, for a total principal award of \$6,515.70 and a total interest award of \$13,894.82.

The Commission therefore withdraws the denial set forth in its Amended Proposed Decision in this claim 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 ICSA (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 NEFSIKA IKONOMI is entitled to an award in the principal amount of Six Thousand Five Hundred Fifteen Dollars and Seventy Cents (\$6,515.70), plus interest on \$55.70 from December 31, 1944, to April 18, 1995, in the amount of One Hundred Sixty-Eight Dollars and Ten Cents (\$168.10); and interest on \$758.33 from August 16, 1951, to April 18, 1995, in the amount of One Thousand Nine Hundred Eighty-Seven Dollars and Fifty-Eight Cents (\$1,987.58); and interest on \$1,666.67 from April 9, 1967, to April

18, 1995, in the amount of Two Thousand Eight Hundred One Dollars and Sixty-Seven Cents (\$2,801.67); and interest on \$2,701.67 from December 25, 1946, to April 18, 1995, in the amount of Seven Thousand Eight Hundred Thirty-Two Dollars and Fourteen Cents (\$7,832.14), and interest on \$1,333.33 from June 25, 1981, to April 18, 1995, in the amount of One Thousand One Hundred Five Dollars and Thirty-Three Cents (\$1,105.33), for a total interest award of \$13,894.82 and a total award of principal and interest in the amount of Twenty Thousand Four Hundred Ten Dollars and Fifty-Two Cents (\$20,410.52).

Claimant ALEKSANDRA ZOTO is entitled to an award in the principal amount of Six Thousand Five Hundred Fifteen Dollars and Seventy Cents (\$6,515.70), plus interest on \$55.70 from December 31, 1944, to April 18, 1995, in the amount of One Hundred Sixty-Eight Dollars and Ten Cents (\$168.10); and interest on \$758.33 from August 16, 1951, to April 18, 1995, in the amount of One Thousand Nine Hundred Eighty-Seven Dollars and Fifty-Eight Cents (\$1,987.58); and interest on \$1,666.67 from April 9, 1967, to April 18, 1995, in the amount of Two Thousand Eight Hundred One Dollars and Sixty-Seven Cents (\$2,801.67); and interest on \$2,701.67 from December 25, 1946, to April 18, 1995, in the amount of Seven Thousand Eight Hundred Thirty-Two

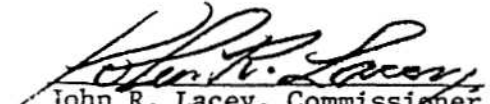
Dollars and Fourteen Cents (\$7,832.14), and interest on \$1,333.33 from June 25, 1981, to April 18, 1995, in the amount of One Thousand One Hundred Five Dollars and Thirty-Three Cents (\$1,105.33), for a total interest award of \$13,894.82 and a total award of principal and interest in the amount of Twenty Thousand Four Hundred Ten Dollars and Fifty-Two Cents (\$20,410.52).

Claimant LILJANA SALI is entitled to an award in the principal amount of Six Thousand Five Hundred Fifteen Dollars and Seventy Cents (\$6,515.70), plus interest on \$55.70 from December 31, 1944, to April 18, 1995, in the amount of One Hundred Sixty-Eight Dollars and Ten Cents (\$168.10); and interest on \$758.33 from August 16, 1951, to April 18, 1995, in the amount of One Thousand Nine Hundred Eighty-Seven Dollars and Fifty-Eight Cents (\$1,987.58); and interest on \$1,666.67 from April 9, 1967, to April 18, 1995, in the amount of Two Thousand Eight Hundred One Dollars and Sixty-Seven Cents (\$2,801.67); and interest on \$2,701.67 from December 25, 1946, to April 18, 1995, in the amount of Seven Thousand Eight Hundred Thirty-Two Dollars and Fourteen Cents (\$7,832.14), and interest on \$1,333.33 from June 25, 1981, to April 18, 1995, in the amount of One Thousand One Hundred Five Dollars and Thirty-Three Cents (\$1,105.33), for a total interest award of \$13,894.82 and

a total award of principal and interest in the amount of Twenty Thousand Four
Hundred Ten Dollars and Fifty-Two Cents (\$20,410.52).

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

DEC 15 1998


John R. Lacey, Commissioner


Richard T. White, 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 claimant in this case alleges that her father, Kostandin Zoto, who died in 1951, had owned several pieces of improved real property and large amounts of merchandise and cash in the city of Fier, and that all of this property was seized by the Albanian communist regime at various points between 1946 and 1981. She further alleges that he had lived and worked in the United States from 1912 to 1932, and she asserts that he was naturalized as a United States citizen at some point during that period. However, she has submitted no documentation or other evidence to substantiate her assertion. She has submitted a copy of a statement issued by the Department of Public Health and Charities of

Philadelphia, Pennsylvania, on June 14, 1932, referring to one "Costantin James Zotto," but it merely states that a "search of the records for the marriage of Costantin James Zotto in the years of 1912 to 1932 to date inclusive fails to show any registration of the same in the Division of Vital Statistics." Nor has the claimant submitted documentation or other evidence to establish that she has ever held United States nationality.

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). Moreover, a claim is compensable only if it has been continuously held by one or more U.S. nationals from the date of confiscation until April 18, 1995, the effective date of the Settlement Agreement. This requirement is well established in the law of international claims, and has long been applied by the Commission and its predecessor, the International Claims Commission. (See, e.g., *Claim of Peter D. Janus against Yugoslavia*, Claim No. Y-1721, Decision No. Y-0377 (1954); *Claim of Mia Foster against Czechoslovakia*, Claim No. CZ-2696, Decision No. CZ-0001 (1960).

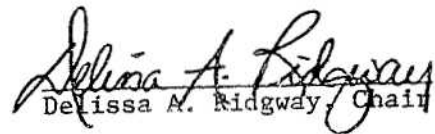
The Commission finds that claimant has provided no evidence to support a determination that the property in question was owned by a national of the United States at the time of the alleged confiscation. Accordingly, while the Commission sympathizes with the claimant for the loss of her family's property, it is unable to find that her claim is compensable under the Settlement Agreement. Accordingly, the claim must be and is hereby denied.

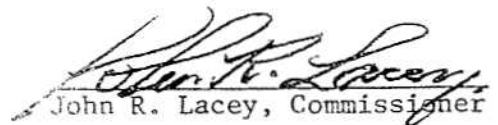
The Commission also notes, however, that if claimant is not eligible to recover in this forum, the claimant may be entitled to some form of relief through the Albanian Government. The Government of Albania is obligated by the Settlement Agreement to afford U.S. nationals the same rights it affords Albanian

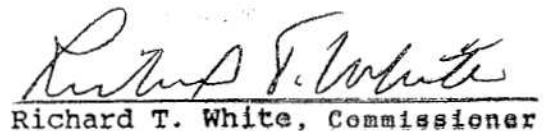
nationals to pursue and receive compensation, restitution or any other remedy available under the domestic restitution and compensation procedures established by the Albanian Government. Settlement Agreement, Article 6. The Commission's May 17, 1996, letter advised claimant to contact the Albanian authorities directly, if she wishes to pursue such a claim.

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

NOV 18 1996


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).