

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

In the Matter of the Claim of

BASIL G. PANO

Against the Government of Albania

Claim No. ALB-248

Decision No. ALB-168

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real and personal property located in Katundi and Trebicke, 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 claimant in this case has asserted that the property which is the subject of his claim was confiscated by the Albanian government at the time of the communist takeover. At that time, according to the claimant, the property was owned by his father, James P. Pano. The claimant has established that his father became a United States national by naturalization in April 1943, and that he is a United States national by virtue of his birth in New Hampshire on

Personally Identifiable Information
Redacted under 5 U.S.C. §552(b)(6)

Claimant has submitted two claim forms in this case. The first, dated December 18, 1995, claims for a house, personal property, and acreage in Trebicke. Claimant has stated that this Trebicke house was occupied by military forces during World War I and II; and an August 29, 1994, to claimant from relatives in Albania states that the house "was burnt up by German soldiers." The second claim form submitted, dated December 27, 1995, claims for "[claimant's] grandfather's original homestead"—including personal property, land and a house in Katundi.

By letter dated March 19, 1996, the Commission requested that the claimant submit additional information, including evidence of ownership of the properties in question, and evidence of the date and circumstances of the alleged confiscations. In response, claimant submitted a copy of the probate record issued by the State of New Hampshire, in which he is named administrator of his father's estate. The probate record shows that his father died intestate with no real or personal property to be administered.

On September 5, 1996, the Commission reiterated its request for additional information and clarification, and informed the claimant that if the requested information and evidence were not received within thirty days, the claim would be submitted for decision on the basis of the existing record.

Claimant responded by letter dated October 4, 1996, indicating that he had forwarded the Commission's request for additional information to his relatives in Albania, but no further evidence has been submitted since that time.

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 the evidence submitted to date is insufficient to meet the claimant's burden of proof on both the Trebicke and the Katundi properties.

As a threshold matter, the Commission notes that the August 1994 personal correspondence submitted by the claimant indicates that the Trebicke house (and, presumably, the personal property) were destroyed by German forces in World War II. As the Commission's September 10, 1996 letter to claimant explained, such losses cannot be attributed to the Albanian Communist government established in 1944. The Settlement Agreement between the governments of the United States and Albania covers only losses suffered at the hands of the Communist regime in that country. Accordingly, the loss of the

Trebicke house and personal property is not compensable under the Settlement Agreement. The claim for land in Trebicke remains.

Personal correspondence dating back to 1938 would appear to establish at a minimum that a house in Trebicke did exist; and, by definition, that house must have been sitting on some land. However, even if the Commission were to accept the 1938 correspondence as evidence of the ownership of some land, claimant has failed to provide any indication of the size of the plot -- not even sworn written statements of former neighbors or village officials with personal knowledge of the facts. The Commission could not estimate the value of the property without credible evidence of its size.

Moreover, claimant has indicated that his father owned the property at the time of confiscation, and that he is the heir of his father and the administrator of his father's estate. However, to date, claimant has submitted no evidence to establish whether he is the only heir of his father or there are other heirs. This evidence too would be necessary to allow the Commission to determine whether claimant inherited part or all of his father's claim to the Trebicke property.

Finally, claimant has never specified the date and circumstances of the confiscation of the property, indicating only that "[w]hen Communists took over the country, all property was nationalized." But, to enable the Commission to

properly calculate the extent of the loss, the Commission must have some evidence -- for example, old letters or sworn written statements of former neighbors or villagers with personal knowledge of the events -- concerning approximately when and how the property was taken.¹

The part of the claim for the Katundi property is plagued by similar insufficiencies in the evidence.

Claimant must first establish the existence and ownership of the property in question. On his December 27, 1995 claim form, claimant indicated that his grandfather owned the property in the late 1800s, and that it was his grandfather's "original homestead." The claim form further indicates that the property belonged to claimant's father, James Pano, at the time of confiscation. But claimant has submitted no evidence (other than his own statements) to establish the existence of the property and the extent of his right to claim for it.

For example, while official documentation (purchase contracts, tax records, mortgage records, etc.) is the most authoritative proof of ownership, the

¹The Commission further notes that claimant has failed to date to respond to its request that he state whether either the Trebicke or Katundi properties have been returned to him or to other members of his family and whether he or his family has received compensation from any source for either property. The Commission could not make an award in the absence of this information.

Commission may accept less formal evidence (such as old letters discussing the property or sworn written statements of individuals with personal knowledge of the property). Claimant's December 27, 1995 claim form referred to "old correspondence" concerning the Katundi property, which might help establish its existence and ownership; however, it appears that that correspondence has not been submitted to the Commission.²

Further, while claimant has indicated that his father owned the Katundi property at the time of confiscation, claimant's father apparently inherited the property from claimant's grandfather. Claimant therefore must prove both whether his father was the only heir of his grandfather or there were other heirs, and whether claimant is the only heir of his father or there are other heirs. To date, claimant has provided no evidence on these points.

Nor has claimant provided any description of the Katundi house and personal property, or the size and type of the land. As with the Trebicke property discussed above, the Commission could not estimate the value of the Katundi property without credible documentary evidence or credible sworn written witness statements on these matters.

²The claim form indicates that, as of December 1995, claimant did not even know whether the Katundi house is still standing. This matter has never been clarified for the Commission.

Finally, claimant has not specified the approximate date and circumstances of the confiscation of the Katundi property -- information the Commission must have to enable it to properly calculate the extent of claimant's loss.

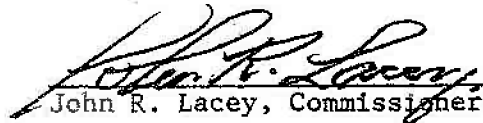
Although the Commission sympathizes with the claimant for the loss of his family's property, the evidence now before the Commission is not sufficient to support an award in his favor. Claimant's claim therefore must be and is hereby denied.

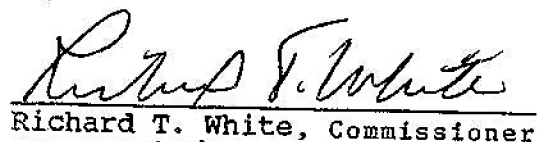
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

NOV 18 1996


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner


Richard T. White, Commissioner

This decision was entered as the Commission's
Final Decision on **JAN 14 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).