

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

In the Matter of the Claim of	}	
	}	
	}	
	}	
MERI TITE	}	Claim No. ALB-296
	}	
	}	Decision No. ALB-274
	}	
Against the Government of Albania	}	

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real and personal property located in Petran, Lipivan, Grabove, and Lushnje, in the District of Permet.

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 stated that the property which is the subject of her claim--consisting of a water-powered grain mill, a shop, and a garden in Petran, parcels of farmland in Lipivan, Grabove and Lushnje, and a typewriter and two firearms--was confiscated or otherwise taken by the Albanian government at various points between 1946 and 1967. According to the claimant, the property was variously owned by her grandfather, Llukan Tite, by her grandmother, Varvara Tite, and by her father, Peter Tite, at the time of confiscation. As supporting documentation, she has submitted a copy of her passport, reflecting that she acquired United States nationality by birth in Albania

in 1938, as well as assorted documents relating to the ownership, nature, value and loss of the property at issue in her claim and the dates and places of death of her grandparents and her father.

The Commission first notes that claimant was issued her United States passport by the United States Embassy in Tirana, Albania, which means that she is recognized as a United States national by birth in Albania. Based on this fact, the Commission makes the logical inference that claimant's father, Peter Tite, who is said to have been naturalized as a United States national in 1935, was in fact a United States national since at least Personally Identifiable Information -
Redacted under 5 U.S.C. §552(b)(6), the date of the claimant's birth. The Commission also finds that the claimant's father lived in the United States from 1939 until 1988, when he returned to Albania, and that he died in Albania on May 15, 1993, leaving his wife, Ollga Tite, and the claimant as the heirs of his estate. In addition, the Commission finds that Peter Tite inherited one-half of the estate of his mother, Varvara Tite, upon her death in Albania on January 2, 1945, with the other one-half inherited by his father, Llukan Tite, and that Peter Tite became the sole heir of his father's estate upon his death on July 12, 1953.

The evidence further establishes, and the Commission finds, that the claimant's grandfather, Llukan Tite, owned 7 *dynym* (0.7 hectare or about 1.7 acres) of farmland in the village of Lushnje, as well as 7 *dynym* of farmland and 0.5 *dynym* of vineyard in the village of Grabove, and that claimant's grandmother, Varvara Tite, also owned 7 *dynym* of farmland in Lushnje. Research conducted by the Commission's independent consultant in Albania has established that farmland in Grabove was collectivized as of March 15, 1955. Although the consultant was not able to ascertain precisely when collectivization took place in Lushnje, the Commission considers it reasonable to assume, in view of the proximity of the two villages, that it occurred on or about the same date. At that time, the land was owned by the claimant's father who, as indicated above, lived in the United States until 1988, when he returned to Albania. Upon his death in Albania on May 15, 1993, the claimant and her mother inherited his estate in equal shares.

Based upon the foregoing, the Commission finds that the property in question, consisting of 2.1 hectares (about 5.2 acres) of farmland and 0.05 hectares (about .12 acres) of vineyard, was taken by the Albanian government as of March 15, 1955. Accordingly, as the heir of one-half of her father's estate,

claimant is entitled to an award for the resulting loss, dating from March 15, 1955.

Claimant has not sought to assign a value to the property as of the time of taking. Based on its study of the values of various kinds of land in Albania, and comparisons with property values determined in other claims, the Commission find that the farmland in question had a value of approximately \$300 per acre, or \$1,600, at the time of loss, and that the vineyard's value was \$100 at the time of loss. Accordingly, claimant is entitled to an award in the principal amount of \$850 for her inherited one-half interest in her father's claim for the property's loss, dating from March 15, 1955.

Claimant also seeks compensation for the other one-half interest in her father's claim for the farmland and vineyard inherited by her mother, based on an assignment of that interest by her mother. However, since claimant's mother was not a U.S. national at the time of claimant's father's death, that interest was not continuously held by a U.S. national from the date of the loss to the date of settlement. This requirement of continuous U.S. ownership of a claim is well established in the law of international claims, and has long been applied by both this 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). Accordingly, that portion of claimant's claim must be and is hereby denied.

Similarly, claimant has sought to assert a claim for the confiscation of a "Remington" typewriter, a "Colt" pistol, and a "Browning" shotgun, which is said to have occurred in 1946. At that time, however, these property items were owned by her grandfather, who was an Albanian national at all times prior to his death in 1953. Accordingly, that portion of the claimant's claim must also be and is hereby denied.

In addition, claimant has included in her claim other agricultural property consisting of 0.5 hectare of "fruit trees" and another hectare of farmland. However, she has submitted no documentation or other supporting evidence to substantiate her family's ownership of that property.

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 claimant is responsible for the production of evidence in this case and thus bears the burden of proof in submitting independent objective evidence. To date, the claimant has not met the burden of proof to establish her family's ownership of the property here in question. Accordingly, that portion of her claim must also be and is hereby denied.

Finally, claimant has asserted a claim for the nationalization, in 1967, of a water-powered flour mill, shop, "mill ditch" and 2,210 square meters of land underlying and surrounding the mill. However, the Commission's independent consultant in Albania has advised that, according to the files of the "Commission for the Return of and Compensation for Property" in Permet, the mill property has been restored to private ownership, in the name of claimant's mother. In view of this development, the Commission must conclude that the claimant's claim for an interest in the claim for the loss of the mill property may not be favorably considered, as any favorable consideration of her claim would result in double recovery on account of the same loss. Accordingly, that portion of her claim must be and is hereby denied as well.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission concludes that the 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, the claimant is entitled to an interest award of 240.6 percent of her principal award, or \$2,045.10.

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 will therefore be forwarded to the Albanian government in due course.

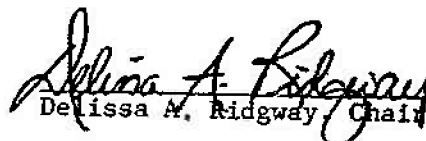
The Commission therefore makes the following award, which will be certified to the Secretary of the Treasury for payment in accordance with sections 5, 7 and 8 of Title I of the ICSCA (22 U.S.C. §§1624, 1626 and 1627).

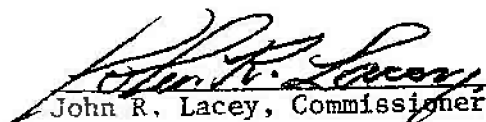
AWARD

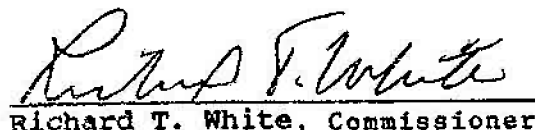
Claimant MERI TITE is entitled to an award in the principal amount of Eight Hundred Fifty Dollars (\$850.00), plus interest from March 15, 1955, to April 18, 1995, in the amount of Two Thousand Forty-Five Dollars and Ten Cents (\$2,045.10), for a total award of Two Thousand Eight Hundred Ninety-Five Dollars and Ten Cents (\$2,895.10).

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

FEB 24 1997


Delissa M. Ridgway, Chair


John R. Lacey, Commissioner


Richard T. White, Commissioner

This decision was entered as the Commission's
Final Decision on **MAY 06 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).