

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

In the Matter of the Claim of

AMALI LAKURIQI
AFERDITA PEMA
ODISE LAKURIQI
PERPARIM LAKURIQI
ANDON LAKURIQI
MARIANTHI LAKURIQI
DHIMITRAQ LAKURIQI

Against the Government of Albania

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} Claim No. ALB-307

} Decision No. ALB-289(R)
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AMENDED FINAL DECISION

This claim against the Government of Albania is based upon the confiscation of real property located in the village of Mbreshtan, City of Berat.

In a Final Decision issued on April 15, 1997, the Commission entered awards in favor of AFERDITA PEMA, ODISE LAKURIQI, PERPARIM LAKURIQI, and ANDON LAKURIQI in the principal amount of \$357.50 each, along with interest awards of \$821.50 each, based on their inherited 14.3 percent shares in the claim for the loss of their father's agricultural property as of January 1, 1957. However, the Commission denied the claim of AMALI LAKURIQI because she did not establish that she ever held United States nationality at any time relevant to this claim. In addition, the Commission

denied the claims of MARIANTHI LAKURIQI and DHIMITRAQ LAKURIQI on the ground that they had provided no information to 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 date the claim 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 MARIANTHI LAKURIQI and DHIMITRAQ LAKURIQI are now entitled to awards in the principal amount of \$357.50 for their respective shares in their father's claim for the loss of his agricultural property in Mbreshtan. These awards shall also date from January 1, 1957.

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 January 1, 1957, to April 18, 1995 (the effective date of the settlement agreement). Accordingly, each claimant is entitled to an interest award of 229.8 percent of his or her principal award, or \$821.50.

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 ICSCA (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 MARIANTHI LAKURIQI is entitled to an award in the principal amount of Three Hundred Fifty-Seven Dollars and Fifty Cents (\$357.50), plus interest from January 1, 1957, to April 18, 1995, in the amount

of Eight Hundred Twenty-One Dollars and Fifty Cents (\$821.50), for a total award of One Thousand One Hundred Seventy-Nine Dollars (\$1,179.00).

Claimant DHIMITRAQ LAKURIQI is entitled to an award in the principal amount of Three Hundred Fifty-Seven Dollars and Fifty Cents (\$357.50), plus interest from January 1, 1957, to April 18, 1995, in the amount of Eight Hundred Twenty-One Dollars and Fifty Cents (\$821.50), for a total award of One Thousand One Hundred Seventy-Nine Dollars (\$1,179.00).

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

JUN 29 2006



Mauricio J. Tamargo, Chairman



Stephen C. King, Commissioner

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Hearing on the record held on April 15, 1997

FINAL DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property located in the village of Mbreshtan, City of Berat.

The Commission's Proposed Decision, entered on February 24, 1997, denied the claim, primarily because evidence in the file indicated that the claimants had filed a claim with the Section of Finance of Berat District for the return of their property, and that--by Veredict No. 1841, dated November 30, 1995--the Court of Berat District had found the heirs of Lluk Lakuriqi to be the rightful owners of that property. The Proposed Decision also notified the

claimants that the Commission had not had the opportunity to complete its own independent investigation in Albania and that, in the absence of a formal renunciation by the claimants of the decision of the Berat Court, the Commission was unable to award the claimants compensation for their property.

On March 14, 1997, a representative of the claimants contacted the Commission by telephone to advise that the property had not been returned to the claimants and that verification of that assertion would be submitted to the Commission directly from Albania. The Commission has now received a Certification dated March 12, 1997 from the Council of the Berat District, confirming that the claimants herein have not been compensated nor are they seeking compensation for the value of their property in Albania.

Based on the entire record, the Commission finds that claimants' late husband and father, Lluk Lakuriqi, was the owner of 3.96 hectares of agricultural property located in the village of Mbreshtan, in the vicinity of the City of Berat. The Commission is aware that on or about August 29, 1945, the Albanian Communist regime promulgated the "Agrarian Reform Law," which provided that land not directly worked by the owner was subject to seizure and redistribution by the government, without payment of compensation to the legal owner. Land Reform Law No. 108, GZ 1945, No. 39. That law was affirmed

by the 1946 Albanian constitution which stated that "land belongs to the tiller."
Alb. Const., 1946, Ch. I, Art. 12.

The claimants have stated that their property was taken in 1957 during "the collectivization of agriculture." The Commission's independent research has verified that local authorities established agricultural collectives in various villages between 1957 and 1967. Based on the entire record, the Commission determines that the implementation of the Agrarian Reform Law, coupled with the restrictions placed upon non-farming owners and the collectivization decrees, had the effect of depriving the claimants' late husband and father of his property, and thus constituted an uncompensated expropriation by the Government of Albania. Accordingly, claimants are entitled to awards of compensation for the resulting loss. For lack of a precise date, the Commission will deem the loss to have occurred as of January 1, 1957.

The Commission notes that Lluk Lakuriqi died in Albania in 1966 and was survived by his wife, AMALI LAKURIQI and six children. Claimants assert that each of them inherited a 14.3 percent interest in the claim as the heirs of Lluk Lakuriqi. This is supported by evidence in the record. As explained in the Proposed Decision, however, only claimants AFERDITA PEMA, ODISE LAKURIQI, PERPARIM LAKURIQI and ANDON LAKURIQI are eligible

claimants because they were the only claimants who were citizens of the United States, and who satisfied the residency requirement of the Settlement Agreement.

The claimants have asserted a value of \$396,000.00 for the 3.96 hectares of property. They assert that one square meter of land was worth \$10.00 in 1957. However, they have not submitted any evidence to support that 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 property at issue—consisting of 3.96 hectares (9.8 acres) located in the village of Mbreshtan, City of Berat—had a value at the time of expropriation of approximately \$250.00 per acre, or \$2,500.00.

Accordingly, each of the claimants is entitled to an award in the principal amount of \$357.50 as compensation for the loss of the agricultural property, dating from January 1, 1957.

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 award, amounting to 6 percent simple interest per annum from the dates of loss to April 18, 1995 (the effective date of the Settlement Agreement). Accordingly, each claimant is entitled to an interest award of 229.8 percent of his or her principal award, or \$821.50.

The Commission therefore withdraws the denial set forth in its Proposed Decision and 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 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 AFERDITA PEMA is entitled to an award in the total principal amount of Three Hundred Fifty-Seven Dollars and Fifty Cents (\$357.50), plus interest from January 1, 1957 to April 18, 1995, in the amount of Eight Hundred Twenty-One Dollars and Fifty Cents (\$821.50), for a total award of One Thousand One Hundred Seventy-Nine Dollars (\$1,179.00).

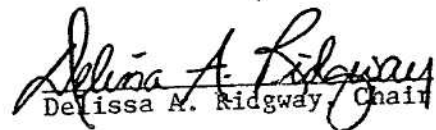
Claimant ODISE LAKURIQI is entitled to an award in the total principal amount of Three Hundred Fifty-Seven Dollars and Fifty Cents (\$357.50), plus interest from January 1, 1957 to April 18, 1995, in the amount of Eight Hundred Twenty-One Dollars and Fifty Cents (\$821.50), for a total award of One Thousand One Hundred Seventy-Nine Dollars (\$1,179.00).

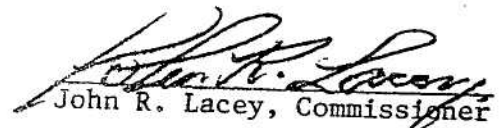
Claimant PERPARIM LAKURIQI is entitled to an award in the total principal amount of Three Hundred Fifty-Seven Dollars and Fifty Cents (\$357.50), plus interest from January 1, 1957 to April 18, 1995, in the amount of Eight Hundred Twenty-One Dollars and Fifty Cents (\$821.50), for a total award of One Thousand One Hundred Seventy-Nine Dollars (\$1,179.00).

Claimant ANDON LAKURIQI is entitled to an award in the total principal amount of Three Hundred Fifty-Seven Dollars and Fifty Cents (\$357.50), plus interest from January 1, 1957 to April 18, 1995, in the amount of Eight Hundred Twenty-One Dollars and Fifty Cents (\$821.50), for a total award of One Thousand One Hundred Seventy-Nine Dollars (\$1,179.00).

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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MARIANTHI LAKURIQI
DHIMITRAQ LAKURIQI

Claim No. ALB-307

Decision No. ALB-289

Against the Government of Albania

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property located in the village of Mbreshtan, City of Berat.

As a preliminary matter, the Commission notes that this claim was received after the expiration of the filing deadline of December 29, 1995. The Commission nevertheless has decided to accept the claim for consideration.

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

The claimants seek compensation for 3.96 hectares of agricultural property located in the village of Mbreshtan, in the vicinity of the city of Berat, which was allegedly expropriated by the government of Albania in 1957. At that time, according to claimants, the property was owned by their husband and father, Lluk Lakuriqi, who acquired United States nationality by naturalization on June 30, 1927. Lluk Lakuriqi died in Albania in 1966 and was survived by his wife, AMALI LAKURIQI and six children. Claimants assert that each of them inherited a 14.3 percent interest in the claim as the heirs of Lluk Lakuriqi.

In support of their claim, claimants have submitted documentation establishing the U.S. nationality of all claimants except AMALI LAKURIQI, who has submitted a copy of her alien registration card. They have also submitted a copy of Verdict No. 1841 from the Court of Berat District, dated November 30, 1995, and a statement that the property at issue has not been returned to them nor have they received any compensation for the property.

The Commission notes that there is no evidence in the record that AMALI LAKURIQI, the wife of Lluk Liquriqi and the mother of the other claimants, ever acquired United States nationality.

In order to be eligible, a claimant must establish not only that the property at issue was owned by a United States national at the time of confiscation, but also that the claim has been continuously held by one or more United States nationals from the date of the 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 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).

Under Title I of the International Claims Settlement Act of 1949, as amended (22 U.S.C. 1621 *et seq.*), the term "nationals of the United States" is defined to include citizens of this country and "persons who, though not citizens of the United States, owe permanent allegiance to the United States," but to specifically exclude "aliens." 22 U.S.C. 1621 (c). The Commission has further held that an alien does not become a national of the United States "until the

procedure of naturalization has been fully complied with and an order divesting him of his former nationality and making him a citizen has been signed by a judge of a court of competent jurisdiction." *KRUKOWSKI, supra*.

Accordingly, because AMALI LAKURIQI is not a national of the United States, her portion of the claim has not been continuously owned by a United States national. Her part of the claim therefore must be and is hereby denied.

Unfortunately, the residency requirement in the Agreed Minute to the Settlement Agreement also precludes the Commission's favorable consideration of those parts of the claim belonging to MARIANTHI LAKURIQI and DHIMITRAQ LAKURIQI. Under the Settlement Agreement, the Commission is constrained to apply the residency requirement to the claims of all dual U.S.-Albanian nationals. Both these claimants are dual U.S.-Albanian nationals, because their father was an Albanian citizen. Under Albanian law, claimants retain Albanian nationality notwithstanding their U.S. nationality by birth.

MARIANTHI LAKURIQI has indicated that she began residing in the United States on September 9, 1996. The Commission notes that claimants have stated that DHIMITRAQ LAKURIQI currently resides in Albania. Thus there is no evidence that either of the two claimants was living in the United States on April 18, 1995 (the effective date of the Settlement Agreement). The

Commission therefore cannot find that the residency requirement is met as to the parts of the claim owned by claimants MARIANTHI LAKURIQI and DHIMITRAQ LAKURIQI. Those parts of the claim therefore must be and are hereby denied.

The portions of the claim belonging to claimants AFERDITA PEMA, ODISE LAKURIQI, PERPARIM LAKURIQI, and ANDON LAKURIQI remain. Because these four claimants were living in the United States in April 1995, they satisfy the residency requirement. The Commission therefore has jurisdiction to consider their parts of the present claim.

The Commission has reviewed the entire record. It notes that the claimants are claiming for 3.96 hectares of agricultural property located in the village of Mbreshtan, District of Berat, which they value at \$369,000.00. The Commission also notes that claimants ODISE LAKURIQI and MARIANTHI LAKURIQI filed a claim against the Section of Finance of Berat District for the return of their property. By Verdict No. 1841, dated November 30, 1995, the Court of Berat District found the heirs of Lluk Lakuriqi to be the rightful owners of that property.

By letter dated January 7, 1997 the claimants were advised that if the claimed property has been returned to them or if they have received compensation

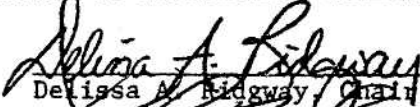
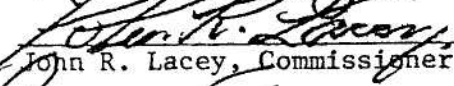
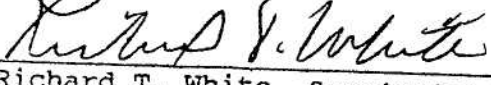
for the property, the Commission will be unable to find them entitled to an award.

To do so would amount to double recovery on account of the same loss. In response, the claimants have stated that the property has not been returned to them nor have they received any compensation for the property. However, because this claim was filed only recently with the Commission, the Commission has not had the opportunity to complete its own independent investigation in Albania. Pending completion of that investigation, and in the absence of a formal renunciation by the claimants of the decision of the Berat Court, the Commission is unable to award compensation to the claimants at this time.

Accordingly, because the Settlement Agreement precludes double recovery and because it appears that claimants were successful in their claim based on the restitution laws of Albania, claimants' claim must be and is hereby denied.

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

FEB 24 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).