

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

In the Matter of the Claim of	}	
	}	
	}	
OLIMBI PANARITI	}	Claim No. ALB-335
ARIAN PANARITI	}	
NOELA KOKOMANI	}	Decision No. ALB-319
RAIMONDA NASE	}	
ROBERTA NASHI	}	
	}	
	}	
	}	
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 in the village of Vithkuq, 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.

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).

This claim was initially filed in the name of ARIAN PANARITI only. In discussions with Mr. Panariti it became evident that his mother and three sisters also had an interest in this claim. The Commission invited these persons to join this claim which they each did by letter to the Commission. Accordingly, the Commission accepts the requests of OLIMBI PANARITI, NOELA KOKOMANI, RAIMONDA NASE and ROBERTA NASHI to be included as co-claimants in this claim.

As an initial matter, the Commission takes note that the properties that are the subject of the current claim are the same as those which were previously the subject of a claim for war damage in its General War Claims Program. (*Claim of ARGIR JOHN DIMITRI and APOSTOLE JOHN DIMITRO*, Claim No. W-12931,

Decision No. W-11396 (1966)¹. That claim encompassed the destruction of the house, some shops, a stable, cattle, and furniture but did not include the land upon which these were located. According to the record in that claim, Argir John Dimitri and Apostole John Dimitro were co-owners of the property when it was destroyed in 1943. Further, the record reflects that each sent money to rebuild and repair the property. As to the value of the property, it was asserted in the war damage claim that the house, shops, stable, and land were purchased from the “Brotherhood Union of Vithkuq” for approximately \$7,000 in 1922, though no documentary evidence was submitted to support that assertion.

Claimants state that the properties that are the subject of this claim were confiscated in 1947 at which time they were owned by Gavrill Panariti, a United States citizen by birth. The claimants further state that Gavrill Panariti died in 2000 in Massachusetts survived by his wife and four children, the claimants herein.

In support of their claim, the claimants have each submitted evidence of their United States citizenship as well as that of Argir John Dimitri and Gavrill Panariti, an Ownership Certificate, sworn statements from both ARIAN PANARITI and OLIMBI PANARITI, and photographs.

¹ The claimants herein are the daughter-in-law and grandchildren of Argir John Dimitri.

With regard to the ownership and loss of land, research conducted by the Commission's independent consultant in the pre-World War II land records located in the Regional Cadastral Archives in Korce has disclosed that the property in question was owned by Dhimitraq Panariti (a.k.a. Argir John Dimitri), Gavrill Panariti's father, a United States citizen since 1930. The independent consultant was unable to confirm the accuracy of the documents of ownership submitted by the claimants, which listed Gavrill Panariti as the owner of the property.

Based on the record in the General War Claims Program claim and the investigation by its independent consultant, the Commission finds that Dhimitraq Panariti and Apostole John Dimitro were the joint owners of a total of 15,400 m² (approximately 6.23 acres) of meadows, cultivated land, and a building lot in the village of Vithkuq. 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 land records obtained by the Commission's independent consultant indicate a change in ownership of the property in 1947 and the claimants have asserted that Gavrill Panariti and his mother were forced from the

property in 1947. The Commission therefore finds that the meadow, cultivated lands, and building lot in Vithkuq were nationalized, expropriated or otherwise taken by the Albanian government as of January 1, 1947.

The claimants assert that located upon the building lot was a three bedroom house. In the General War Claims Program claim, referenced above, a claim was made for the destruction of this structure in 1943. In support of their claim, claimants have submitted photographs of the house taken in 1935, 1972 and 2006. The Commission finds that the evidence submitted by claimants with regard to the house sufficiently proves that the structure was rebuilt and therefore finds that the house was also nationalized, expropriated or otherwise taken by the Albanian government as of January 1, 1947.

The claimants stated in their claim that Mr. Dimitri died in Albania in 1978. In that the claimants have not provided the will of Mr. Dimitri, the Commission assumes that Mr. Dimitri died intestate. Under the Albanian law of inheritance the spouse and children of the decedent received equal shares of the estate², which would have

² Decree no. 1892 on Inheritance, in Gazeta Zyrtare e R.P.SH. (Official Gazette of the People's Republic of Albania), no. 11 of 1954, as amended by Law no. 3169 of November 26, 1960 published in Gazeta Zyrtare no. 13, 1960 Chapter II Art. 21.

included his one-half interest in this claim³. At the time of his death he was survived by his wife, an Albanian citizen, and son, a United States citizen.

The ICSA mandates that the Commission decide claims in accordance with, *inter alia*, "[t]he applicable principles of international law." ICSA section 4(a)(2), 22 U.S.C. 1623(a)(2). It is a well-established principle of the law of international claims, which has been applied without exception by both this Commission and its predecessor, the International Claims Commission, that a claim may be found compensable only if it was continuously held by a United States national from the date it arose until the date of settlement. *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), *Claim of RICHARD O. GRAW Against Poland*, Claim No. PO-7595, Decision No. PO-8583 (1965). Therefore, the portion of the claim, one quarter, attributable to Mr. Dimitri's son, Gavrill Panariti, continued, due to his United States citizenship, to be owned by a United States national after his father's passing, and thus qualifies for compensation. However, since Mr. Dimitri's wife was not a United States

³ The remaining half interest in this claim was owned by Apostole John Dimitro as described above and would have passed to his heirs at the time of his death. Claimants assert that Mr. Dimitro predeceased his wife in Massachusetts in July of 1967 leaving no issue. Assuming his estate was less than \$25,000 his wife would have inherited the entire estate. M.G.L.A. 190 §1(1). Upon his wife's death in December of 1973 Massachusetts inheritance law would have had her estate distributed to her parents or siblings. M.G.L.A. 190 §3. Therefore the claimants herein would not have received any interest in this claim from Apostole John Dimitro.

national, the portion of the claim inherited by her, one quarter, must be and is hereby denied due to the lack of continuous ownership by a United States national.

Gavrill Panariti died in 2000 in the State of Massachusetts. No will having been produced, the Commission assumes that the decedent died intestate. Under the Massachusetts law of inheritance, his widow OLIMBI PANARITI received one half of the estate⁴ and their four children, ARIAN PANARITI, NOELA KOKOMANI, RAIMONDA NASE and ROBERTA NASHI shared equally in the remaining half⁵. OLIMBI PANARITI is accordingly entitled to an award representing one-half of the value of her husband's claim and her four children are each entitled to an award for one-eighth of the value of that claim, all dating from January 1, 1947.

The claimants have failed to provide evidence or other substantiation of the existence and value of furniture and other personal property contained in the house, the live stock animals, the collection of gold coins and Mr. Dimitri's wife's dowry for which they have claimed. Further, with regard to the dowry and the gold coin collection, the claimants have indicated that both of these items were the

⁴ M.G.L.A. 190 §1(2) "If the deceased leaves issue, the survivor shall take one half of the personal and one half of the real property."

⁵ M.G.L.A. 190 §2 "The personal property of a deceased person not lawfully disposed of by will shall,...subject to the preceding section...be distributed among the persons and in the proportions hereinafter prescribed for the descent of real property." M.G.L.A. 190 §3(1), in turn provides for such distribution "In equal shares to his children and to the issue of any deceased child by right of representation."

property of Mr. Dimitri's wife at the time of their expropriation⁶. As stated above, she was not a United States national at the time of confiscation, as required for compensation under the ICOSA, and therefore the claim for these items must also be denied.

The claimants also have failed to substantiate that the barn and storage structure were rebuilt after their destruction in 1943. The award in the General War Claims Program claim, referenced above, included compensation for the destruction of these structures.

Section 509.5(b) of the Commission's regulations provides:

The claimant will have the burden of proof in submitting evidence and information sufficient to establish the elements necessary for a determination of the validity and amount of his or her claim.

45 C.F.R. 509.5(b)(2006).

The Commission finds that the claimants have not met the burden of proof with respect to the portions of their claim referred to above. Accordingly, those portions of their claim must also be and are hereby denied.

As for the portions of the claimants' claim which have been determined to be valid, based on its study of the values of various kinds of real property in Albania before and during World War II and thereafter, together with the evidence before it in

⁶ Olimbi Panariti in her affidavit stated that her mother-in-law would talk about losing "her dowry, and her most memorable loss was the 330 gold coin possession that she had." In ARIAN PANARITI's letter to the Commission signed May 8, 2006 he stated that "The Communist regime also confiscated a 330 piece gold coin 'treasure' ... that my grandfather gave my grandmother as a present".

this case and the prior determinations of value made in the General War Claims Program claim, the Commission finds that the property in question had the following values at the time of loss:

14,900 m ² (3.68 acres) of cultivated and meadow land in Vithkuq	\$900.00
500 m ² building lot in Vithkuq	\$800.00
Three bedroom house	\$3,000.00
Total	\$4,700.00

Accordingly, OLIMBI PANARITI is entitled to an award in the principal amount of \$587.50 for her respective share in the claim; ARIAN PANARITI and NOELA KOKOMANI are each entitled to an award in the principal amount of \$146.88 for their respective shares in the claim; and RAIMONDA NASE and ROBERTA NASHI are each entitled to an award in the principal amount of \$146.87⁸ for their respective shares in the claim, all dating from January 1, 1947.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission further concludes that the claimants are entitled to interest as part of their awards, amounting to 6 percent simple interest per annum from the date of loss to the effective date of the Settlement Agreement. Accordingly, each claimant is also entitled to an interest award of 290.3 percent of his or her principal award.

⁷ Differences due to rounding

Under the terms of the United States-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 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).

A W A R D S

Claimant, OLIMBI PANARITI, is entitled to an award in the principal amount of Five Hundred Eighty-Seven Dollars and Fifty Cents (\$587.50), plus interest from January 1, 1947 to April 18, 1995, in the amount of One Thousand Seven Hundred Five Dollars and Fifty-One Cents (\$1,705.51), for a total award of Two Thousand Two Hundred Ninety-Three Dollars and One Cents (\$2,293.01).

Claimant, ARIAN PANARITI, is entitled to an award in the principal amount of One Hundred Forty-Six Dollars and Eighty-Eight Cents (\$146.88), plus interest from January 1, 1947 to April 18, 1995, in the amount of Four Hundred Twenty-Six Dollars and Thirty-Nine Cents (\$426.39), for a total award of Five Hundred Seventy-Three Dollars and Twenty-Seven Cents (\$573.27).

Claimant, NOELA KOKOMANI, is entitled to an award in the principal amount of One Hundred Forty-Six Dollars and Eighty-Eight Cents (\$146.88), plus interest from

January 1, 1947 to April 18, 1995, in the amount of Four Hundred Twenty-Six Dollars and Thirty-Nine Cents (\$426.39), for a total award of Five Hundred Seventy-Three Dollars and Twenty-Seven Cents (\$573.27).

Claimant, RAIMONDA NASE, is entitled to an award in the principal amount of One Hundred Forty-Six Dollars and Eighty-Seven Cents (\$146.87), plus interest from January 1, 1947 to April 18, 1995, in the amount of Four Hundred Twenty-Six Dollars and Thirty-Six Cents (\$426.36), for a total award of Five Hundred Seventy-Three Dollars and Twenty-Three Cents (\$573.23).

Claimant, ROBERTA NASHI, is entitled to an award in the principal amount of One Hundred Forty-Six Dollars and Eighty-Seven Cents (\$146.87), plus interest from January 1, 1947 to April 18, 1995, in the amount of Four Hundred Twenty-Six Dollars and Thirty-Six Cents (\$426.36), for a total award of Five Hundred Seventy-Three Dollars and Twenty-Three Cents (\$573.23).

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

JAN 25 2007



Mauricio J. Tamargo, Chairman

This decision was entered as the Commission's
Final Decision on MAR 01 2007



Stephen C. King, 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. 509.5 (e) and (g) (2004).