

By letter dated December 30, 1996, claimant objected to the Proposed Decision, asserting that -- but for the Communist regime in Albania -- her mother would have become a U.S. citizen. By letter dated January 7, 1997, the Commission advised claimant to submit any additional evidence or information for the consideration of the Commission before February 7, 1997. However, the letter explained that, under well-established principles of international law, a claim is compensable only to the extent that it was held continuously by nationals of the country espousing the claim -- in this case, the United States -- from the time of the confiscation until the date of settlement of the claim. *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-001 (1960).

Because claimant has not requested an oral hearing, the Commission issues this Final Decision based on its de novo review of the evidence in the record.

The Commission has carefully considered claimant's December 30, 1996 letter and has again reviewed the entire record in this claim. However, while the Commission is sympathetic to the fact that Communist persecution prevented claimant's late mother (like many others) from becoming a U.S. citizen, the Commission finds that the International Claims Settlement Act mandates that it decide claims in accordance with international law. Thus, the Commission is obligated to enforce the requirement of continuous U.S. ownership of a claim (as set forth above) in all claims. That requirement precludes the Commission from awarding compensation to claimant here for the interest in the claim which she inherited through her mother. As such, there is no basis on which to change the result reached in the Proposed Decision in this claim.

Accordingly, the award set forth in the Proposed Decision of December 16, 1996 must be and is hereby affirmed. That award is restated below, and will be certified to the Secretary of the 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).

This constitutes the Commission's final determination in this claim.

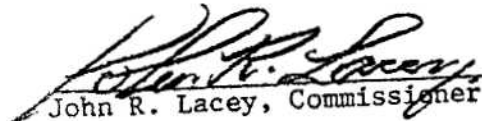
A W A R D

Claimant KATERINA BERBERI is entitled to an award in the principal amount of One Thousand Three Hundred Fifty Dollars (\$1,350.00), plus interest from January 1, 1953 to April 18, 1995 in the amount of Three Thousand Four Hundred Twenty-Six Dollars and Thirty Cents (\$3,426.30), for a total award of Four Thousand Seven Hundred Seventy-Six Dollars and Thirty Cents (\$4,776.30).

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

APR 15 1997


Delissa A. Ridgway, Chair


John R. Lacey, 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 herein, KATERINA BERBERI, seeks compensation for the alleged expropriation by the Government of Albania in 1954 of 3.6 hectares of arable land located in the village of Proger, District of Korce. At that time, according to claimant, the property was owned by her father, Petraq Kugali, who became a national of the United States in 1927.

In support of her claim, the claimant has submitted evidence relating to her and her father's United States nationality. In addition, she has submitted evidence of her father's death in Albania in 1978, evidence of her mother's death in Albania in 1985, and a document entitled "Verification" from the Community

of Proger verifying Petraq Kugali's ownership of 3.6 hectares of agricultural property and stating that the property in question was expropriated in 1953 during the formation of the agricultural cooperatives in the village of Proger. Claimant has also submitted a document from the Tribunal of the District of Devoll identifying her as her father's "rightful" heir.

Based on the evidence in the record, the Commission finds that claimant's father, Petraq Kugali, acquired United States nationality by naturalization on September 16, 1927, in Waterbury, Connecticut, and that he died in Tirana, Albania, on May 5, 1978. The Commission further finds that, prior to 1953, the claimant's father was the owner of 36 dynyms (3.6 hectares or approximately 8.9 acres) of arable land located in the vicinity of the village of Proger, District of Korce. In addition, based on the evidence in the record indicating that agricultural properties in the area of the village of Proger were collectivized sometime in 1953 as part of the Agrarian Reform, the Commission determines that claimant's father's property was the subject of an uncompensated expropriation by the Government of Albania in 1953. For lack of a precise date, the expropriation will be deemed to have occurred as of January 1, 1953.

The claimant asserts that her father's property had a value at the time of expropriation of \$38,000 and that "1 square foot was valued at 1 piece of gold \$9.00 [sic] at that time." However, she has submitted no supporting evidence to substantiate this assertion.

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 this case, the Commission finds that the claimant's father's property consisting of 3.6 hectares (approximately 8.9 acres) of arable land in the vicinity of the village of Proger had a value at the time of expropriation of approximately \$300 per acre, or \$2,700.00.

The Commission notes that the claimant has not provided a copy of her father's will or a certificate of inheritance identifying her as her father's sole heir at the time of his death in 1978. Instead, claimant relies on the document that she has submitted from the Tribunal of the District of Devoll which recognizes her as her father's "rightful heir." However, this document is dated April 24, 1996. In the absence of credible contemporaneous evidence, the Commission is unable to find that the claimant was her father's sole heir in 1978. The Commission finds, therefore, that this claim, owned by the late Petraq Kuqali, who was survived by his wife, Olimbi Kuqali, and the claimant, devolved upon

his death on May 5, 1978, in accordance with the inheritance laws of Albania as found in the Civil Code of April 2, 1928, in equal shares to his wife and the claimant.

To the extent, however, that claimant's claim is based on her inheritance of her mother's one-half interest in her father's claim upon her mother's death in 1985, the Commission lacks jurisdiction over that one-half interest because it was not continuously owned by a U.S. national. The claimant has stated that her mother did not acquire United States nationality. Since the Commission lacks jurisdiction over a part of this case, claimant should be entitled to pursue that part of her claim through the restitution and compensation program being administered by the Government of Albania (if it is not too late to file a claim there). Indeed, the Settlement Agreement between the U.S. and Albania requires that the Government of Albania afford such U.S. nationals the same rights that it affords Albanian nationals to pursue and receive compensation, restitution or any other remedy available under the domestic restitution and compensation procedures established by that government.

Accordingly, the Commission finds the claimant entitled to an award in the principal amount of \$1,350.00 as compensation for her one-half interest in the loss of her father's 3.6 hectares of property, dating from January 1, 1953.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission further 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 the effective date of the Settlement Agreement. Accordingly, claimant is entitled to an interest award of 253.8 percent of her principal award, or \$3,426.30.

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 thus will 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).

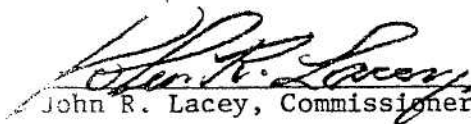
AWARD

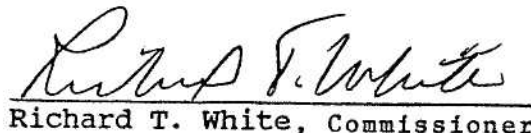
Claimant, KATERINA BERBERI, is entitled to an award in the principal amount of One Thousand Three Hundred Fifty Dollars (\$1,350.00), plus interest from January 1, 1953, to April 18, 1995, in the amount of Three Thousand Four Hundred Twenty-Six Dollars and Thirty Cents (\$3,426.30), for a total award of Four Thousand Seven Hundred Seventy-Six Dollars and Thirty Cents (\$4,776.30).

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


Delissa M. Ridgway, Chair

DEC 16 1996


John R. Lacey, Commissioner


Richard T. White, Commissioner

This decision was entered as the Commission's
Final Decision on **FEB 18 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).