

oral hearing at which to present his objection. In accordance with his request, a hearing was set for April 15, 1997, at 11:00 a.m. In addition, under cover of a letter dated March 31, 1997, claimant submitted evidence of his United States nationality and a copy of his father's death certificate.

However, due to the political unrest then occurring in Albania, the Commission advised the claimant in a letter dated April 3, 1997, that its independent consultant was unable to complete the investigation of his and other still-pending claims, and claimant was offered the opportunity to postpone his oral hearing until October or November 1997. Claimant accepted this offer and his claim was placed in abeyance awaiting improvement in the political situation in Albania.

By letter dated November 21, 1997, claimant also submitted in support of his claim a "*Vertetim*" (Verification) by one Stavro Zaballa (Xarballa), chairman of the "Pogon Commune" (a group of villages in the area of Catiste) purportedly confirming his property ownership, a declaration by his sister, and a detailed map of the area where the claimed property is said to be located.

Because of the continuing political unrest in Albania, claimant's claim remained in abeyance until April 1998, when the Commission's independent consultant finally succeeded in examining records in the District Archives in

Gjirokaster. However, he stated that he was unable to confirm claimant's father's ownership of any property. By Commission letter dated May 7, 1998, claimant was so advised and was afforded an opportunity to comment on the consultant's report. In addition, he was advised that a new date of June 15, 1998, had been set for the oral hearing on his objection.

By letter dated May 19, 1998, claimant's sister, Kirica Botsi, who is also a United States citizen by birth, advised the Commission that she wished to relinquish her rights in the present claim in favor of her brother. Treating this statement as an assignment of her portion of the claim to her brother, the Commission holds that claimant is entitled to claim for the entire share in the loss of property sustained by his father through confiscation by the Albanian Communist regime, based on his and his sister's status as heirs to their father's estate upon his death intestate in Michigan in 1982.

On June 5, 1998, the Commission received a request for continuance of the hearing from claimant's recently retained counsel. As requested, the oral hearing was postponed and rescheduled for September 18, 1998, at which time both claimant and his attorney appeared. At the oral hearing, claimant verified that a claim for a stone house was no longer part of his claim. Claimant also testified that his father, who had acquired United States nationality in 1920,

returned to the United States in 1929 from Albania and that he himself followed in 1939, when he was 16 years old. He left behind in Albania his sister who was already married and who continued to live on his family's property until its confiscation. Prior to his departure, claimant recalled working on the family property which he believed measured at least 200 acres and which consisted of wooded lots, pasture, vineyards and grazing land, with vineyards representing the largest area. While working on the property, he gathered walnuts and harvested different fruits. He recalled that they had many fruit trees consisting of cherry, pears, apples and at least 10 or 12 walnut trees, the latter being a source of income for the family. In addition, there were between 25 to 35 vines on the property from which wine and "raki" was made. Claimant also testified that shepherds used the family land for pasture; that the family itself had between 50 to 60 head of sheep; and that the family cut wood for the winter and sold what they did not use. He also testified that they sold many sacks of wheat. In addition to his mother and sister working on the land, claimant testified that other families also helped work the land.

The Commission has reviewed the material that claimant has submitted subsequent to the oral hearing including sworn statements and correspondence

with his Albanian attorneys.* As the claimant was advised, the Commission's independent consultant in Albania has searched at length among the land records in the archives and cadastral office of the District of Gjirokaster for corroboration of the Vertetim by the chairman of the Pogon Commune which the claimant has submitted, but has been unable to confirm any of the alleged facts set forth in that document. However, the Commission notes that claimant's Albanian attorneys were able to find records in the Albanian State Archives suggesting that, as of 1933, Panajot Elias (claimant's father) was the owner of at least 4,000 square meters of land in the village of Catiste.

The Commission has again reviewed the entire record in this matter, including the recently submitted documents as well as other testimony in the case, both oral and written. The Commission found the claimant to be credible and admires his diligence in pursuit of his claim. However, the Commission must

*The Commission notes that claimant's brother-in-law and the chairman of the Pogon commune had previously submitted statements suggesting that claimant's father's property had consisted of 300 "ar" of agricultural land on which there were about 27 fruit trees and 35 vines. In addition, another 360 "ar" of pasture land was said to have supported about 50 sheep, 2 oxen, a horse and donkey. The total of 660 ar is equivalent to 6.6 hectares or approximately 16 acres. Although claimant now asserts that his brother-in-law understood the abbreviation "ar" to mean "acreage," this would require the assumption that the chairman of the commune also misunderstood. In the Commission's view, such an assumption is neither plausible nor consistent with the other evidence in the record.

treat all claimants fairly and consistently. Based on the totality of the evidence in the record, including evidence of ownership of at least 4,000 square meters of land, the Commission determines that claimant's father owned some agricultural land, on which the vines and fruit trees grew and the family's sheep grazed, and which was cultivated using the family's horses and donkey. Based on the numbers of vines and fruit trees, the Commission finds that the claimant's father owned at least 300 square meters of vineyard and 3,000 square meters of orchard, as well as at least 2 hectares of cropland, 3 hectares of pasture and 1 hectare of woodland.

As for the date of loss of claimant's father's property, the Commission is aware that on or about August 29, 1945, the Albanian Communist regime promulgated the "Agrarian Reform Law." This law 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). This law was then affirmed by the 1946 Albanian constitution which stated that "land belongs to the tiller." (Alb. Const., 1946, Ch. I, Art. 12).

Based on claimant's statements and the entirety of the record, the Commission determines that implementation of the Agrarian Reform Law, coupled with the restrictions placed upon non-farming owners and the formation of agricultural cooperatives, had the effect of depriving claimant's late father of his property, thereby resulting in an uncompensated expropriation by the Government of Albania. According to the file, the property in question was confiscated in 1945. In the absence of a more precise date, the Commission will deem the confiscation to have occurred as of August 29, 1945. Accordingly, the Commission finds that the claimant's father's property was the subject of an uncompensated expropriation by the Government of Albania on or about August 29, 1945.

Claimant has not asserted a value for his father's property as of the loss date. Based on comparisons with property involved in other claims, the Commission finds that the property had a value as of the 1945 confiscation of \$4,000.00. This is based on postulated values per acre for the vineyard and orchard, the cropland, and the pasture and woodland of \$500, \$300, and \$200, respectively. Claimant is therefore entitled to an award in the principal amount of \$4,000.00 based on his inherited and assigned rights to claim for the property's value.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission concludes that the claimant is also entitled to interest as part of his 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 also entitled to an interest award of 297.8 percent of his principal award, or \$11,912.00.

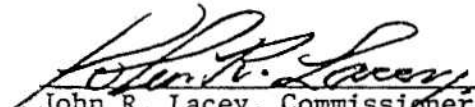
Under the terms of the U.S.-Albania settlement agreement, the United States Government has agreed to advise the Albanian authorities of the issuance of the Commission's awards so as to prevent any double recovery. A copy of this decision will therefore be forwarded to the Albanian government in due course.

The Commission therefore withdraws the denial set forth in the Proposed Decision in this claim and 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 ICSA (22 U.S.C. §§1624, 1626, and 1627). This constitutes the Commission's final determination in this claim.

A W A R D

Claimant, JAMES ELIAS, is entitled to an award in the principal amount of Four Thousand Dollars (\$4,000.00), plus interest from August 29, 1945, to April 18, 1995, in the amount of Eleven Thousand Nine Hundred Twelve Dollars (\$11,912.00), for a total award of Fifteen Thousand Nine Hundred Twelve Dollars (\$15,912.00).

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


John R. Lacey, Commissioner

DEC 15 1998


Richard T. White, Commissioner

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

In the Matter of the Claim of

JAMES ELIAS

Against the Government of Albania

Claim No. ALB-117

Decision No. ALB-206

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real and personal property located in Chiarista (Catiste), in the District of Gjirokaster.

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 his claim (which is said to have consisted of some "200 acres cropland, 35 acres groves, 45 acres vineyards," as well as a village home, rock barn and moveable items) was confiscated by the Albanian government in 1945. The claimant asserts that his father, a United States national since 1920, was the owner of the property at that time. The claimant also asserts that he acquired United States nationality by birth abroad to a United States national in 1923 but has provided no evidence of his date of birth. He has, however, submitted a

copy of his father's Certificate of Naturalization issued in Chicago, Illinois on February 2, 1920.

By Commission letter dated March 20, 1996 the claimant was asked to provide certain evidence in support of his claim including documentation of his birth, his father's ownership of the property which is the subject of the claim and a copy of his father's will. In response, in April 1996, the claimant submitted a notarized declaration and photographs of his property. In his notarized statement, the claimant describes the general area where his property is located, gives a brief description of the house and barn which are the subject of the claim and assigns a value to them. The claimant further states that "[N]o records of the ownership of these structures and lands is [sic] available to us."

According to the claimant, his sister, Kitsa Elias, also a United States citizen by birth, currently residing in Greece, lived in his family's ancestral home until the Albanian government forced her to relocate. The claimant has stated that his father died intestate in Michigan on December 4, 1982 and since his mother had died prior to his father, he asserts that he became the sole heir of his father's property.

By Commission letter dated April 16, 1996, the claimant was again requested to provide some evidence of ownership, as well as evidence of his United States nationality. By subsequent letters to the Commission, the claimant advised the Commission that he had written directly to the Albanian Land Commission in an effort to obtain some evidence of ownership. To date, however, no such evidence or other corroborating evidence has been submitted.

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) (1994).

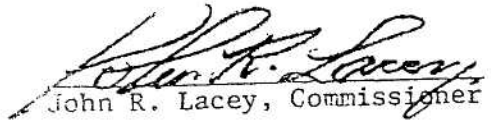
The Commission finds that the claimant has not met the burden of proof in that he has failed to submit evidence to establish the date of his birth and supporting evidence to establish his father's ownership of the properties which are the subject of his claim. In the absence of such evidence, the Commission cannot conclude that claimant's claim is compensable under the terms of the Settlement Agreement. The claim therefore must be and is hereby denied.

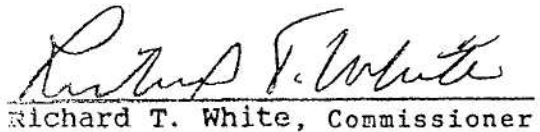
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

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).