

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

In the Matter of the Claim of

ISMET SALI RUSI

Against the Government of Albania

Claim No. ALB-151

Decision No. ALB-196

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 Vishocice, in the District of Bilisht.

The Commission's Proposed Decision, entered on November 18, 1996, denied the claim for lack of evidence of the United States nationality of claimant and his late father and for lack of evidence of ownership of the property claimed.

By letter dated December 5, 1996, the claimant stated objection to the Commission's decision, and enclosed various documents in support of his claim (including copies of his father's 1938 Certificate of Naturalization, claimant's own birth certificate and U.S. passport (reflecting claimant's birth in Personally Identifiable Information
Redacted under 5 U.S.C. §552(b)(6)), claimant's brother's birth certificate, records of claimant's father's service in the U.S. Army, a Family Certificate from Albania, his father's death certificate, and

a Property Certificate from Albania reflecting claimant's father's ownership of 60 dynyms of property).

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.

Based on the entire record, including the documentation submitted in support of claimant's objection, the Commission finds that claimant's late father was the owner of 30 dynyms (7.41 acres) of farmland and 30 dynyms (7.41 acres) of other property.

Although claimant has submitted no specific evidence to support his assertion that his father's property was confiscated in 1946, 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.

Based on the entire 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, thus constituting an uncompensated expropriation by the Government of Albania. In the absence of a precise date, the Commission will deem the taking to have occurred as of January 1, 1946.

The Commission further finds that, upon the death of claimant's father in 1975, his estate devolved in equal shares to claimant and claimant's brother. Accordingly, claimant is entitled to compensation for a one-half interest in the claim for his late father's property, dating from January 1, 1946.

Claimant has asserted that his late father's property had a value of "over \$15,000" at the time of confiscation; however, he has provided no documentation in support of that value, which is well in excess of the valuation established by the evidence in other comparable cases. 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 claimant's father's land had a value at the time of expropriation of approximately \$200.00 per acre, or \$3,000.00. Accordingly, the Commission finds claimant entitled to an award in the principal

amount of \$1,500.00 as compensation for the loss of his one-half interest in his late father's 6 hectares of property, dating from January 1, 1946.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission further concludes that claimant is entitled to interest as part of his 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, claimant is entitled to an interest award of 295.8 percent of his principal award, or \$4,437.00.

The Commission therefore withdraws its denial of claimant's claim 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 ICOSA (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.

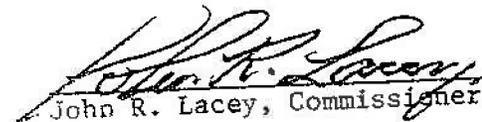
A W A R D

Claimant ISMET SALI RUSI is entitled to an award in the principal amount of One Thousand Five Hundred Dollars (\$1,500.00), plus interest from January 1, 1946 to April 18, 1995, in the amount of Four Thousand Four Hundred Thirty-Seven Dollars (\$4,437.00), for a total award of Five Thousand Nine Hundred Thirty-Seven Dollars (\$5,937.00).

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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PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property located in Vishocice, District of Bilisht.

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 asserted that the property that is the subject of his claim was confiscated by the Albanian government in 1946. At that time, according to the claimant, his father, Sali Azemi, was the owner of the property in question. The claimant has stated that his father acquired United States nationality by naturalization in 1938 and that he acquired United States nationality in 1992. However, he has provided no evidence to substantiate either statement.

By letter dated February 14, 1996, the Commission requested that the claimant submit evidence of his and his father's United States nationality and some evidence of ownership of the property for which he was claiming. By another letter dated June 17, 1996, the Commission advised the claimant that unless the Commission heard from him within thirty (30) days, the lack of documentation in the file could result in a denial of the claim. No substantive response has been received to date.

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.

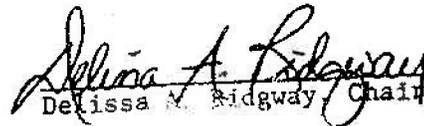
45 C.F.R. 531.6(d) (1995).

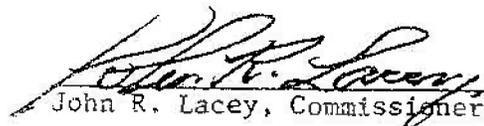
The Commission finds that the claimant has not met the burden of proof to establish his and his father's United States nationality and his interest in the property at issue in this claim. In the absence of such evidence, the Commission cannot conclude that claimant's claim is compensable under the terms of the Settlement Agreement. The claim therefore must be and is hereby denied.

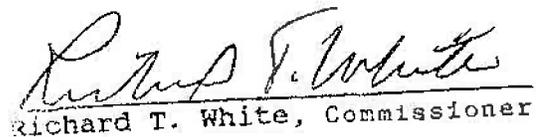
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

NOV 18 1996


Delissa M. 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).