

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

In the Matter of the Claim of

VEBI BEJLERI
REMZIE HOXHA
VEPRORE COCOLI

Against the Government of Albania

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} Claim No. ALB-153

} Decision No. ALB-193
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Hearing on the Record held on July 31, 1998.

FINAL DECISION

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

By Proposed Decision entered on November 18, 1996, the Commission denied this claim on the ground that claimants had failed to submit supporting evidence to establish their father's ownership of the property which was the subject of their claim and their inheritance of the right to claim for the property's loss.

In June 1997, claimants contacted the Commission stating that they had just received documents of ownership from Albania and wished to "re-open" their file. The Commission received the said documents on June 25, 1997.

Although not specifically so denominated, the Commission has decided to treat claimants' submission as an objection to the Proposed Decision. Because claimants have not requested an oral hearing, the Commission issues this Final Decision in a hearing on the record, based on its *de novo* review of the evidence submitted in support of their claim.

Claimants here, all United States nationals by birth, seek compensation for 3 hectares of land said to have been expropriated by the Albanian government in the agrarian reform of 1945. At that time, according to claimants, the property was owned by their father, Xhemal T. Vishocica (also known as Xhemal Bejleri), a United States citizen since 1927, and by their father's brother, Qemal Telha Bejleri, an Albanian citizen.

In support of their claim, claimants have now submitted an Ownership Certificate dated January 6, 1996, issued by the Archives of the Council of Devoll District, which indicates that -- as of 1945 -- their father, Xhemal Bejleri was the owner of 15 *dynyms* (1.5 hectares) of land in the village of Vishocica.

The ownership of this property has been verified by the Commission's independent consultant in Albania.

Based on the entire record, the Commission finds that claimants' late father, Xhemal Bejleri, a national of the United States, was the owner of real property located in the village of Vishocica, District of Devoll, consisting of 1.5 hectares (one-half of the 3 hectares claimed for), or about 3.7 acres, of fertile farmland.

Although claimants have provided no specific evidence of the date and circumstances of the Communist confiscation, 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 claimants' 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 claimants' late father of his property,

thus constituting an uncompensated expropriation by the Government of Albania. In the absence of a more precise date, the Commission will deem the confiscation to have occurred as of August 29, 1945.

The claimants have stated that their father died without a will. They have submitted evidence that their father died in New Hampshire on February 3, 1961, and that their mother, an Albanian citizen, died in Albania in 1977. The Commission therefore finds that this claim, owned by the late Xhernal Bejleri, devolved upon his death intestate on February 3, 1961, in accordance with the descent and distribution laws of the State of New Hampshire, to his wife, an Albanian national, to the extent of one third, with the remaining two-thirds devolving to the claimants, his three children.

The claimants have generally asserted that the property was paid for in "golden money" and that it was very expensive. However, no evidence in support of any valuation has been submitted. Based on its own study of the values of various kinds of real property in Albania before and during World War II and thereafter, the Commission finds that claimants' father's land had a value at the time of expropriation of approximately \$300.00 per acre, or \$1,110.00. Accordingly, the claimants are respectively entitled to awards in the principal amount of \$246.67 for their respective two-ninths interests in their father's claim.

To the extent, however, that claimants' claim is based on their inheritance of their mother's one-third interest in their father's claim upon their mother's death in 1977, the Commission lacks jurisdiction over their claim to that one-third interest because it was not continuously owned by a U.S. national. According to the claimants, their mother never acquired United States nationality before her death. Consequently, their claim for their mother's inherited interest in their father's claim must be and is hereby denied.

The Commission also notes, however, that claimants should be entitled to pursue the claim inherited through their mother 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.

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 awards, 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, each claimant is entitled to an interest award of 297.8 percent of his or her principal award, or \$734.57.

The Commission therefore withdraws its denial of this claim set forth in the Proposed Decision, and enters the awards 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.

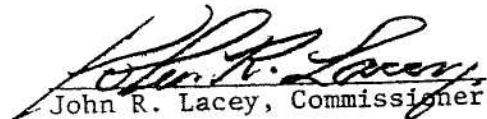
A W A R D S

Claimant VEBI BEJLERI is entitled to an award in the principal amount of Two Hundred Forty-Six Dollars and Sixty-Seven Cents (\$246.67), plus interest from August 29, 1945 to April 18, 1995, in the amount of Seven Hundred Thirty-Four Dollars and Fifty-Seven Cents (\$734.57), for a total award of Nine Hundred Eighty-One Dollars and Twenty-Four Cents (\$981.24).

Claimant REMZIE HOXHA is entitled to an award in the principal amount of Two Hundred Forty-Six Dollars and Sixty-Seven Cents (\$246.67), plus interest from August 29, 1945 to April 18, 1995, in the amount of Seven Hundred Thirty-Four Dollars and Fifty-Seven Cents (\$734.57), for a total award of Nine Hundred Eighty-One Dollars and Twenty-Four Cents (\$981.24).

Claimant VEPRORE COCOLI is entitled to an award in the principal amount of Two Hundred Forty-Six Dollars and Sixty-Seven Cents (\$246.67), plus interest from August 29, 1945 to April 18, 1995, in the amount of Seven Hundred Thirty-Four Dollars and Fifty-Seven Cents (\$734.57), for a total award of Nine Hundred Eighty-One Dollars and Twenty-Four Cents (\$981.24).

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


John R. Lacey, Commissioner

JUL 31 1998


Richard T. White, Commissioner

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OF THE UNITED STATES
UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, DC 20579

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PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property in Vishocica, in the 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 claimants in this case have stated that the property which is the subject of their claim were confiscated by the Albanian government in 1946. At the time of confiscation, according to the claimants, the property was owned by their father, Xhemal Telha Vishocica, and his brother, Qemal Telha Bejleri. The claimants assert that their father became a national of the United States by naturalization in 1927.

By letter dated February 14, 1996, the Commission requested that the claimants submit evidence of their own and their father's United States nationality, their father's death certificate and will or certificate of inheritance,

evidence of their father's ownership of an interest in the property in question and certain other evidence. No response was received. On July 8, 1996, the Commission again requested the necessary evidence and informed claimants that if such information and evidence was not received within thirty days, it would be necessary to determine the claim on the basis of the existing record. The claimants subsequently submitted copies of their United States passports issued August 27, 1992, by the American Embassy in Tirane, and a copy of the State of New Hampshire's certification that their father died in 1961. However, despite a further Commission request for evidence of ownership of the properties and other information, no additional evidence or information has been submitted 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 claimants have not met the burden of proof in that they have failed to submit supporting evidence to establish their father's ownership of the property which is the subject of their claim and their inheritance

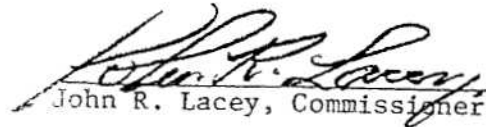
of the right to claim for the property's loss. In the absence of such evidence, the Commission is unable to find that this claim is compensable under the Settlement Agreement. The claim therefore must be and is hereby denied.

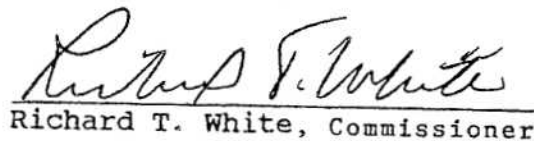
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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


Delissa A. Ridgway, Chair

NOV 18 1996


John R. Lacey, Commissioner


Richard T. White, Commissioner

This decision was entered as the Commission's
Final Decision on JAN 14 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).