

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 herein seek compensation for the alleged expropriation by the Government of Albania in 1946 of 4.515 hectares of arable land located in Sul, District of Devoll. At that time, the property is said to have been owned by Ferris Abdul, husband of FATIMA TEFIK PERONA and father of BEDIHA BACKA and URMA SPAHIU. Claimants further state that Ferris Abdul became a United States national in 1936 and that he died in 1962, leaving them as the heirs of his estate.

In support of their claim, the claimants have submitted a Certificate of Inheritance issued in Bilisht in 1996, Certificates of Ownership issued by the District Council of Devoll, copies of pages from BEDIHA BACKA's and URMA SPAHIU's United States passports, and other materials.

Based on the evidence in the record, the Commission finds that Ferris Abdul owned a one-half interest in 4.515 hectares (about 11.2 acres) of arable land in the village of Sul, District of Devoll. The other one-half interest is documented as having been owned by his brother, Faik Abdul. The Commission further finds that Ferris Abdul became a United States national by naturalization in or about 1936--or, in any event, prior to the birth of URMA SPAHIU, who has established that she is a United States national by birth on January 9, 1937. In addition, the Commission finds that BEDIHA BACKA became a United States national by birth on September 18, 1938. The record also reflects, however, that FATIMA TEFIK PERONA has been an Albanian national at all times relevant to this claim.

With regard to the loss of Ferris Abdul'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 the entire record, the Commission determines that the implementation of the Agrarian Reform Law, coupled with the restrictions placed upon non-farming owners, had the effect of depriving Ferris Abdul of his one-half interest in the property in question, and thereby constituted an uncompensated expropriation by the Government of Albania. In view of the claimants' statement that the property was lost "in 1946," the loss will be deemed to have occurred as of January 1, 1946.*

The claimants have stated that they are "uncertain" as to the value of Ferris Abdul's property interest at the time of loss. Based on its studies of land values in Albania, and on comparisons with similar properties at issue in other claims, the Commission finds that Ferris Abdul's one-half interest in the 4.515

*Although not mentioned by the claimants, information obtained independently by this Commission from the records of the Commission on Return of or Compensation for Property (RCP) indicates that 1,020 square meters of Ferris and Faik Abdul's former property holdings have been returned to private ownership by the current Albanian government. However, the Commission has assumed that this land was returned to the heirs of Faik Abdul, who are citizens and residents of Albania.

hectares or 11.2 acres of arable land in question had a value of \$1,200 on the expropriation date of January 1, 1946.

As noted, the evidence in the record includes a Certificate of Inheritance issued in Bilisht in 1996. This document reflects the court's determination that the claimants herein each inherited a one-third interest in Ferris Abdul's estate upon his death in 1962. Based on that determination, the Commission finds that URMA SPAHIU and BEDIHA BACKA are each entitled to an award in the principal amount of \$400 as compensation for the loss of their one-third interests in their father's claim for the expropriation of his property by the Albanian Communist regime. These awards shall date from January 1, 1946.

With regard to FATIMA TEFIK PERONA's interest in the claim, however, it has already been noted that she has been at all relevant times an Albanian national. As such, her share in the claim has not been continuously held by a United States national at all times from the date it arose until April 18, 1995, the effective date of the Settlement Agreement.

The ICOSA mandates that the Commission decide claims in accordance with, *inter alia*, "[t]he applicable principles of international law." ICOSA section 4(a)(2), 22 U.S.C. 1623(a)(2). One such principle is that a claim may be found compensable only if it was continuously held by one or more United States

nationals from the date of the confiscation of the property which is the subject of the claim until April 18, 1995, the effective date of the Settlement Agreement.

This requirement of continuous United States nationality of the owner or owners of a claim is well established in the law of international claims, and has long been applied by both this Commission and its predecessor, the International Claims Commission. *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).

In this case, upon Ferris Abdul's death in 1962, there was a break in the continuity of United States-national ownership of the part of Ferris Abdul's claim for his property that formed the share inherited by FATIMA TEFIK PERONA, since there is no indication that she has ever acquired United States nationality. Accordingly, the Commission finds that FATIMA TEFIK PERONA's share in this claim must be and is hereby denied.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission further concludes that the URMA SPAHIU and BEDIHA BACKA 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, claimants

are each entitled to an interest award of 295.8 percent of their principal awards, or \$1,183.20.

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 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 ICSA (22 U.S.C. §§1624, 1626, and 1627).

AWARDS

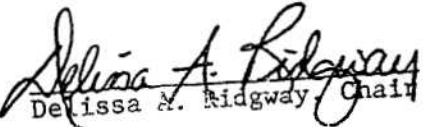
Claimant, URMA SPAHIU, is entitled to an award in the principal amount of Four Hundred Dollars (\$400.00), plus interest from January 1, 1946, to April 18, 1995, in the amount of One Thousand One Hundred Eighty-Three Dollars and Twenty Cents (\$1,183.20), for a total award of One Thousand Five Hundred Eighty-Three Dollars and Twenty Cents (\$1,583.20).

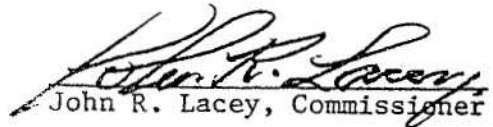
Claimant, BEDIHA BACKA, is entitled to an award in the principal amount of Four Hundred Dollars (\$400.00), plus interest from January 1, 1946, to April 18, 1995, in the amount of One Thousand One Hundred Eighty-Three

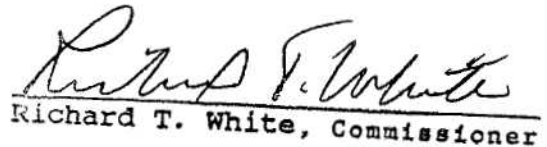
Dollars and Twenty Cents (\$1,183.20), for a total award of One Thousand Five Hundred Eighty-Three Dollars and Twenty Cents (\$1,583.20).

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

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).