

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

In the Matter of the Claim of	}	
	}	
	}	
MIHALLAQ STATHI	}	Claim No. ALB-169
	}	
	}	Decision No. ALB-255(R)
	}	
	}	
Against the Government of Albania	}	

AMENDED PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property located in Korca.

In a Proposed Decision issued on January 28, 1997, which became final on March 25, 1997, the Commission denied this claim against the Government of Albania because it was not established either that the claimant was living in the United States on April 18, 1995, or that the claim was owned by someone living in the United States for at least half the time between April 18, 1995, and the date the claim arose, as required in the Agreed Minute to the U.S.-Albania Claims Settlement Agreement. *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").

By letter dated July 10, 2006, the Commission notified the claimant that in a Diplomatic Note dated April 27, 2006, the Albanian Minister of Foreign Affairs had advised the United States Embassy in Albania that it accepted and agreed with a proposal made by the United States Government on November 18, 2005, to delete the residency requirement from the Agreed Minute to the Settlement Agreement.

As a result of this modification of the Settlement Agreement, the Commission reviewed claimant's file again and requested certain additional information and documentation from the claimant in support of the claim for confiscation of the subject property, which is said to have taken place in 1945.

By letter dated August 11, 2006, the claimant submitted additional documentation in support of the claim. This documentation consists of copies of his United States passport and of his father's naturalization certificate and death certificate, English translations of a certificate of inheritance and a court decision issued in Albania in 1994, and a copy of a decision issued by the "Commission for Restitution of and Compensation for Ex-Owners' Real

Estate” of the District of Korca issued in 1999, accompanied by an English translation.

The Commission has carefully reviewed the record before it, including the recent submissions. From this review, it appears that the claimant, MIHALLAQ STATHI was born in Albania on Personally Identifiable Information Redacted under 5 U.S.C. §552(b)(6) ; that the claimant’s father was a United States national at the time of the claimant’s birth; and that the claimant was the owner of the claimed property at the time of confiscation in 1945.

The Commission notes however, that the document recently submitted by the claimant entitled “Decree No. 1502 of September 7, 1999” from the Commission of Restitution and Compensation of Ex-Owners’ Real Estates of the District of Korca awarded claimant a one-fifth share of 1500 m² of vineyard land amenable to return to private ownership, and a one-fifth share of compensation for 117.5 m² of vineyard land not amenable to return to private ownership. The Commission also notes that the amount of land awarded to the claimant under the aforementioned decree is somewhat different from the amounts for which he initially claimed*, but there is no indication that the

* “221.5 m² of land ... used for buildings and vineyard land of 647 m².”

claimant was less than fully satisfied by the decree: no portion of his restitution claim was denied.

It was previously explained to the claimant in a letter from the Commission's staff dated September 8, 2006 that double compensation for the same property is not permissible under the settlement agreement. To date, however, the claimant has failed to respond to the Commission's correspondence on this point.

Section 509.5(b) of the Commission's regulations provides:

The claimant will have the burden of proof in submitting evidence and information sufficient to establish the elements necessary for a determination of the validity and amount of his or her claim.

45 C.F.R. 509.5(b)(2006).

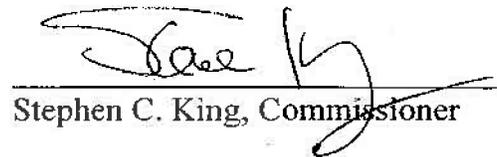
Based on its review of the record before it, the Commission is constrained to find that the claimant has not met the burden of proof in establishing his entitlement to compensation in the present claim, in that he has failed to submit evidence to establish his ownership and the expropriation of any property in Albania other than that which was the subject of his Albanian restitution claim. Accordingly, the Commission must conclude that the present claim is not compensable under the terms of the Settlement Agreement. The claim therefore must again be and is hereby denied.

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

FEB 22 2007



Mauricio J. Tamargo, Chairman



Stephen C. King, 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. 509.5 (e) and (g) (2004).

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

In the Matter of the Claim of

MIHALLAQ STATHI

Against the Government of Albania

Claim No. ALB-169

Decision No. ALB-255

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property located in the city of Korçe.

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 Agreed Minute to the Settlement Agreement further provides:

For purposes of article 1, the term "United States nationals" shall include dual United States-Albanian nationals only if those nationals are domiciled in the United States currently or for at least half the period of time between when the property was taken and the date of entry into force of the agreement.

In effect, this residency requirement limits the Commission's jurisdiction over the claims of dual nationals to those cases where the owner of the claim either (1) was domiciled in the United States on April 18, 1995 (the effective date of the Settlement Agreement), or (2) was domiciled in the United States for at

least half the period of time between the date the property was expropriated and April 18, 1995.

Claimant here, assertedly a United States national by birth, seeks compensation for 647 square meters of vineyards and 221.5 square meters of additional land, said to have been expropriated from him by the Albanian government in the agrarian reform of 1945.

Unfortunately, the information provided by claimant to date is not sufficient to establish his right to compensation. It appears that claimant is a dual U.S.-Albanian national, because his father was an Albanian citizen. Under Albanian law, claimant retains Albanian nationality notwithstanding his U.S. nationality by birth.

Because claimant is a dual United States-Albanian national, the Commission is constrained to apply the residency requirement in the Agreed Minute to the Settlement Agreement. However, there is no indication that claimant was living in the United States on April 18, 1995, or that he lived in the United States for at least half the approximately 50 years between the expropriation of his property in 1945 and the effective date of the Settlement Agreement, April 18, 1995.

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 claimant here has not met the burden of proof in that he has failed to prove either that he was living in the United States on April 18, 1995, or that he lived in the United States for at least half the time between April 18, 1995 and the date his claim arose. In the absence of such evidence, the Commission is unable to find that the residency requirement in the Agreed Minute to the Settlement Agreement is satisfied.

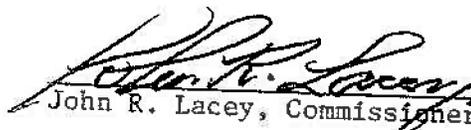
Accordingly, while the Commission sympathizes with claimant for the loss of his property, it cannot find -- on the evidence submitted to date -- that this claim is compensable under the terms of the Settlement Agreement. The claim therefore must be and is hereby denied.

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,

JAN 28 1997


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner


Richard T. White, Commissioner

This decision was entered as the Commission's
Final Decision on **MAR 25 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).