

Senator's office to be an objection to the Proposed Decision. The Commission's letter further noted that claimant would be required to provide evidence to establish his status as an heir of his parents, the ownership of the property at issue, the date and circumstances of its confiscation, and the value of the property.

Claimant has since provided additional evidence to the Commission. The file in this claim now includes copies of pages from claimant's father's U.S. passport (issued in July 1964 and stamped to indicate that he died in Greece in February 1976), materials concerning claimant's application to the local Commission for the Return of and Compensation for Property in Albania, a Declaration (dated March 14, 1992) from an official of Lukove (attesting to the ownership and confiscation of 316 fruit trees and grapevines), and plans of nine parcels of property (totaling 4,557 square meters) in the name of claimant's family.¹ In addition, the U.S. Immigration and Naturalization Service has informed the Commission that claimant's father was naturalized as a U.S. citizen on March 8, 1937.

¹Claimant's own U.S. citizenship was established in the Commission's General War Claims Program. See *Claim of ARTHUR GENERALIS*, Claim No. W-7091, Decision No. W-18967 (1967) (finding that claimant was naturalized in February 1944).

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, the Commission finds that claimant's parents, Constantinos Generalis (a national of the United States) and Sofia Generalis (an Albanian national), were the owners of a total of 4,557 square meters (.456 hectares, or 1.13 acres) of land, as well as 316 fruit trees and grapevines -- all of which were confiscated by the former Communist regime in Albania in 1946.

Although claimant has provided no specific evidence of the date and circumstances of 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 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 claimants' parents of their 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 January 1, 1946.

The Commission further finds that, upon the death of claimant's father in 1976, his estate passed in equal shares to his wife, claimant, and claimant's two younger brothers. Accordingly, claimant is entitled to compensation for a one-eighth share in the claim for the property confiscated from his parents, dating from January 1, 1946.²

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 parent's land had a value at the time of expropriation of approximately \$400.00. The Commission further finds that the fruit trees and grape vines had a value of approximately \$1,600.00. Accordingly, claimant is

²Although claimant has asserted that he was his father's sole heir, no evidence has been submitted to substantiate that assertion. Moreover, because claimant's mother was not a citizen of the United States, the Commission cannot award claimant compensation for any interest in the property at issue which he may have inherited through her. As explained in the Commission's Proposed Decision, a claim is compensable under international law only if the property was owned by a national of the United States when the property was confiscated.

entitled to an award in the principal amount of \$250.00 for his one-eighth interest in the property inherited directly from his father. The award shall date 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 \$739.50.

The Commission therefore withdraws its denial in this 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 ICSA (22 U.S.C. §§ 1624, 1626 and 1627).

The Commission notes that it appears that claimant has filed an application for the return of his property with the Commission for the Return of and Compensation for Property in Albania. 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.

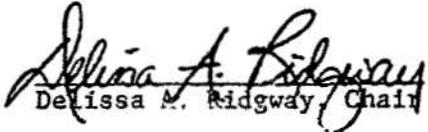
This constitutes the Commission's final determination in this claim.

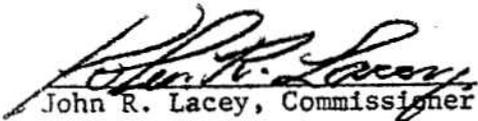
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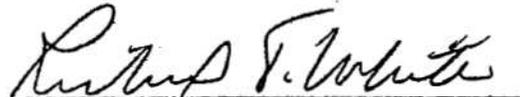
Claimant ARTHUR GENERALIS is entitled to an award in the principal amount of Two Hundred Fifty Dollars (\$250.00), plus interest from January 1, 1946 to April 18, 1995, in the amount of Seven Hundred Thirty-Nine Dollars and Fifty Cents (\$739.50), for a total award of Nine Hundred Eighty-Nine Dollars and Fifty Cents (\$989.50).

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

FEB 24 1997


Delissa M. Ridgway, Chair


John R. Lacey, Commissioner


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

ARTHUR GENERALIS

Against the Government of Albania

Claim No. ALB-217

Decision No. ALB-069

PROPOSED DECISION

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

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 was confiscated by the Albanian government in 1946. At that time, according to claimant, the property was owned by his parents, both Albanian citizens.

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). It is a well-established principle of international law, which this Commission has applied without exception, that a claim may be found compensable only if the property which is the subject of

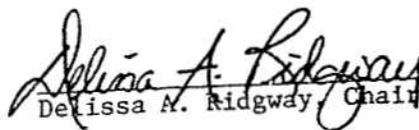
the claim was owned by a national of the United States when the property was expropriated or otherwise taken. *See, e.g., Claim of EUGENIA D. STUPNIKOV Against Yugoslavia*, Claim No. Y-2-0071, Decision No. Y-2-0003 (1967); *Claim of ILONA CZIKE Against Hungary*, Claim No. HUNG-2-0784, Decision No. HUNG-2-191 (1976); *Claim of JOSEPH REISS Against the German Democratic Republic*, Claim No. G-2853, Decision No. G-2499 (1981); *Claim of TRANG KIM Against Vietnam*, Claim No. V-0014, Decision No. V-0001 (1982). This principle has also been recognized by the courts of the United States. *See, e.g., Haas v. Humphrey*, 246 F.2d 682 (D.C. Cir. 1957), *cert. denied* 355 U.S. 854 (1957).

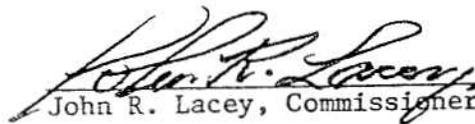
The Commission finds that, at the time the property in question was assertedly taken by the Albanian government, it was not owned by a national of the United States. Accordingly, while the Commission sympathizes with the claimant for the loss of his family's property, it must conclude that his claim is not 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.

MAR 04 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) (1994).