



U.S. Department of Justice

Foreign Claims Settlement Commission  
of the United States

Washington, D.C. 20579

August 16, 2007

MEMORANDUM

TO: Mauricio J. Tamargo, Chairman  
Stephen C King, Commissioner

THRU: David E. Bradley, Chief Counsel

FROM: Jeremy LaFrancois, Staff Attorney *JLR*

RE: No Further Action Recommendation, Claim No. ALB-290, VANGJO GJERAZI & MERI GJERAZI

*returned prop  
but  
residency  
??*

*No claim?*

We reevaluated this claim because of the deletion of the residency requirement from the claims agreement. The claim was initially denied on January 28, 1997 based on the residency requirement and lack of proof of United States citizenship.

Because the Proposed Decision originally had denied VANGJO GJERAZI's and MERI GJERAZI's claim based on residency issues, the claim was erroneously tagged as having a "residency problem." Having again reviewed the claim however, we have determined that it in fact is not cognizable under the claims program, as claimants have received the property back and are claiming only for loss of use of the property during the period of expropriation, which was addressed in the Proposed Decision (copy attached).

In light of the fact that the claimants were not contacted regarding reopening this claim and that the claim is non-cognizable, we recommend that this claim be closed without further action.

*approved*

*[Signature]*

*[Signature]*

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

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In the Matter of the Claim of

VANGJO GJERAZI  
MERI GJERAZI

Against the Government of Albania

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Claim No. ALB-290

Decision No. ALB-263

PROPOSED DECISION

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

As a preliminary matter, the Commission notes that this claim was received by the Commission after the expiration of the Commission's filing deadline of December 29, 1995. The Commission has nevertheless decided to accept the claim for consideration.

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.

Claimants here, husband and wife, seek compensation for the loss of use of 187 square meters of land and a two-story stone house, said to have been expropriated by the Albanian government in 1971. Although the property was returned to claimants' family in 1994, the family was deprived of the benefit of the property for more than 20 years. At the time of expropriation, according to claimants, the property was owned by VANGJO GJERAZI's father, Jani Gaqo Gjerazi (or Gjeraze), who was naturalized as a United States citizen sometime between 1955 and 1960. The claimants state that VANGJO GJERAZI inherited the right to claim for the property upon the death of his father in Albania in 1977 and that, under Albanian law, Meri Gjerazi has an interest in the claim as VANGJO GJERAZI's wife.

Unfortunately, for the reasons explained in the Commission's May 17, 1996 letter to claimants and discussed below, the Commission has no jurisdiction to consider this claim.

It appears that claimant VANGJO GJERAZI was not a U.S. citizen at the time of his father's death in 1977. The ICSA mandates that the Commission decide claims in accordance with, *inter alia*, "[t]he applicable principles of international law." ICSA section 4(a)(2), 22 U.S.C. 1623(a)(2). Under international law, a claim is compensable only to the extent that it has been continuously held by one or more United States nationals from the date of confiscation through April 18, 1995 (the effective date of the Settlement Agreement). This requirement of continuous U.S. nationality is well-established and has long been applied both by 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, the chain of continuous ownership of the claim by a U.S. national was broken in 1977, when claimant's father died and ownership of the claim passed to claimant. Accordingly, the Commission has no jurisdiction to consider the claim of VANGJO GJERAZI.

To the extent that MERI GJERAZI has an interest in the claim,<sup>1</sup> that part of the claim also must be denied. It appears that MERI GJERAZI is a dual U.S.-Albanian national, because her father was an Albanian citizen. Under Albanian law, she retains Albanian nationality notwithstanding her U.S. nationality by birth. Because she is a dual United States-Albanian national, the Commission is constrained to apply the residency requirement.

There is no evidence that MERI GJERAZI was living in the United States on April 18, 1995; indeed, there is no evidence that she has ever lived in the United States. Moreover, Jani Gjerazi left the United States in 1960 (before the property was expropriated).

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).

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<sup>1</sup>The Commission here assumes for the sake of argument that MERI GJERAZI inherited an interest in the claim directly from Jani Gjerazi. If, instead, Mrs. Gjerazi acquired an interest in the claim through her husband, the chain of continuous U.S. ownership of the claim was broken (as discussed above) and her part of the claim must be denied for that reason.

The Commission finds that claimant MERI GJERAZI has not met the burden of proof in that she has failed to establish either that she was living in the United States on April 18, 1995 (the effective date of the Settlement Agreement), or that she lived in the United States for at least 12 years between April 1995 and 1977, when her father-in-law died.<sup>2</sup> 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 claimants for the loss of their family's 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.

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<sup>2</sup>To satisfy the residency requirement (other than by domicile in the U.S. on April 18, 1995), the owner of the claim must have lived in the U.S. for at least half the time between the date of the expropriation and April 18, 1995. In this case, approximately 24 years passed in that period. Thus, to satisfy the residency requirement, Mrs. Gjerazi must have lived in the U.S. for at least 12 years after she acquired her interest in the claim.

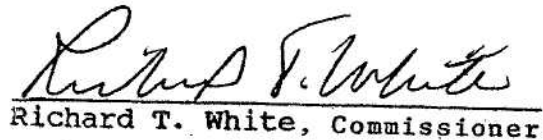
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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).