

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 | } | |
| PULLUMB TOTO | | Claim No. ALB-145 |
| Against the Government of Albania | | Decision No. ALB-298 |

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property located in Cuke Farm, Sarande, District of Sarande.

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 herein, PULLUMB TOTO, seeks compensation for the alleged expropriation by the Government of Albania in 1946 of 42.125 hectares of arable land located in Cuke, District of Sarande; and for the land upon which a number of farm houses and a warehouse once stood. According to claimant, the property was owned at the time by his father, Hasan James Toto, a national of the United States since 1925, who had inherited it from his father, claimant's grandfather, Embro (Emro) Toto, who died in 1943. After the death of Hasan

James Toto in 1979, the claimant and his sister became the owners of their father's claim.¹

In support of his claim, the claimant has submitted a copy of his father's Certificate of Naturalization; a copy of his own birth certificate; a copy of the will of Lufto Toto, his uncle; a certificate of inheritance; certain documents relating to his grandfather's ownership of various parcels of land; and a number of affidavits.

Based on the evidence in the record, the Commission finds that Hasan James Toto acquired United States nationality by naturalization in Pittsburgh, Pennsylvania on September 10, 1925 and that claimant is a United States national by birth in New York on Personally Identifiable Information
Redacted under 5 U.S.C. §552(b)(6). In addition, based on other evidence in the record, the Commission finds that claimant's grandfather, Embro Toto, owned numerous parcels of land, including land for houses and warehouses, totaling approximately 4,560 dynyms or 456 hectares in the vicinity of Sarande.

The Commission is aware that on or about August 29, 1945, the Albanian Communist regime promulgated the "Agrarian Reform Law," which provided

¹Claimant's sister, Englantina Bungo, who resides in Albania, has not filed a claim for her interest in her father's claim.

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 the entire record, the Commission determines that the implementation of the Agrarian Reform Law, coupled with the formation of agricultural cooperatives, had the effect of depriving the claimant's father of his interest in the property here in issue, and thereby constituted an uncompensated expropriation by the Government of Albania. In this case, claimant has stated that the property was confiscated in 1946. For lack of a precise date, the Commission will deem the taking of the land to have occurred as of January 1, 1946.

The Affidavit of Inheritance dated September 28, 1993, indicates that according to Decision No. 103, dated March 25, 1980, of the Municipal Court of the City of Gjirokaster, claimant's grandfather, who died in 1943, left a will. Under the terms of his will, his estate was shared equally by his four children,

including claimant's father, Hasan James Toto.² After Hasan James Toto's death in 1979, his estate was divided equally between the claimant and his sister. Accordingly, the claimant's share in the claim for the properties once owned by his grandfather is a one-half interest of a one-fourth interest, or one-eighth.³

The claimant asserts generally that, in 1932, the purchase price of the property at issue was 1,200 gold napoleons. Based on its study of the values of various kinds of real property in Albania before and during World War II and thereafter, together with the evidence before it in this case, the Commission finds that the value of the claimant's one-eighth interest in the claim for the property once owned by his grandfather located in the general area of Sarande was

²Claimant has also submitted a copy of the will of Lufto Toto, his father's brother, who died in 1972. Under the terms of his will, Lufto Toto left 14 percent of his estate to his brother, Hasan Toto. Although the claimant has not specifically so stated, the Commission assumes that the claimant is also claiming an interest in the 14 percent inherited by his father from Lufto Toto. However, evidence in the Commission's War Claims program records indicates that Lufto Toto acquired U.S. nationality by naturalization on June 15, 1959. *Claim of LUFTO TOTO*, Claim No. W-10543, Decision No. W-3846 (1965). Accordingly, at the time of confiscation in 1946, any property owned by Lufto Toto was not owned by a U.S. national, as required under the terms of the U.S.-Albania Settlement Agreement.

³The Transcription Note No.181 dated October 25, 1932 indicates that Embro Toto had a one-eighth interest in approximately 3,370 dynyms of land, or 420 dynyms. The Certification dated March 11, 1993 from Delvina indicates that Embro Toto owned approximately 1,220 dynyms. Claimant's one-eighth interest in the properties once owned by his grandfather thus equals approximately 200 dynyms or 20 hectares (50 acres).

\$10,000.00 at the time of confiscation. Accordingly, claimant is entitled to an award in the principal amount of \$10,000.00 as compensation for the loss of his father's agricultural property, dating from January 1, 1946.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission further concludes that the claimant is entitled to interest as part of his award, amounting to 6 percent simple interest per annum from the date of loss to the effective date of the Settlement Agreement. Accordingly, claimant is entitled to an interest award of 295.8 percent of his principal award, or \$29,580.00.

As part of the documentation supporting his claim, the claimant has submitted a Certificate from the District Council of Tirana, dated March 11, 1996, indicating that no portion of his grandfather's property has been returned to him. However, the Commission's independent consultant in Albania has advised that the heirs of Embro and Lufto Toto have submitted two applications to the Commission for the Return of and Compensation for Property of the District of Sarande. Both claims are currently pending.

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 therefore will be forwarded to the Albanian government in due course.

Accordingly, the Commission makes the following award, 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 ICOSA (22 U.S.C. §§1624, 1626 and 1627).

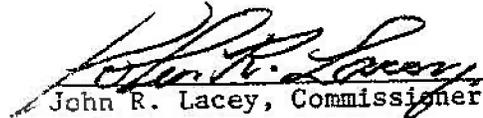
A W A R D

Claimant PULLUMB TOTO is entitled to an award in the principal amount of Ten Thousand Dollars (\$10,000.00), plus interest from January 1, 1946 to April 18, 1995, in the amount of Twenty-Nine Thousand Five Hundred Eighty Dollars (\$29,580.00), for a total amount of Thirty-Nine Thousand Five Hundred Eighty Dollars (\$39,580.00).

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

FEB 24 1997


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner


Richard T. White, Commissioner

This decision was entered as the Commission's Final Decision on MAY 06 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).