

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

In the Matter of the Claim of

STAVRI GURI BURI
MARJETA TRESKA

Against the Government of Albania

Claim No. ALB-203

Decision No. ALB-257

Hearing on the Record held on September 18, 1998.

FINAL DECISION

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

By Proposed Decision entered on January 28, 1997, the Commission denied this claim, on the ground that claimant STAVRI GURI BURI had failed to submit supporting evidence to establish either that he 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.

By letter postmarked June 14, 1997, claimant STAVRI GURI BURI requested the Commission to again review his claim, asserting that he had, in fact, been domiciled in the United States since 1992. In addition, he asserted that

his sister had been domiciled in the United States since 1992, and she requested that the Commission include her as a claimant in her brother's claim.

Although not specifically so denominated, the Commission has decided to treat that letter as an objection to the Proposed Decision and, as requested, now includes claimant's sister, MARJETA TRESKA, as a co-claimant. Because claimants have not requested an oral hearing, the Commission issues this Final Decision in a hearing on the record, based on its de novo review of the evidence submitted in support of their claim.

Claimants here, both United States nationals since birth, seek compensation for the following: 4000 square meters of land located in Bulgarec, 15,000 square meters of land located in Plase, and three buildings located at Lagja Korce, at Rruga Kamardes Nr.8 and at Mborje, all said to have been expropriated by the Albanian government in 1946. At that time, according to claimants, the property was owned by their father, Guri Kostandin Buri (also known as Peter Guri Buris), a United States citizen since 1927.

In support of their claim, claimants have submitted evidence of their residence in the United States since 1992, and an Ownership Certificate dated October 20, 1995, from the Mortgage Office of Korce which indicates that in 1942, their father, Guri Kostandin Buri, purchased at auction 0.4 hectares of a field in the village of Bulgarec. They have also submitted an Ownership

Certificate dated October 30, 1995, which indicates that in 1938, claimants' father was the owner of a two-thirds interest in property measuring 2.3 hectares located in the village of Plase. Claimants also submitted evidence purporting to establish their father's ownership of three buildings located at Lagja Korce, at Rruga Kamardes Nr.8, and in Mborje.

The authenticity of the ownership documents submitted has been verified by the Commission's independent consultant in Albania. However, the consultant has advised the Commission that claimants' father never actually owned the building located at Lagja Korce or the building located at Rruga Kamardes Nr. 8.

By Commission letter dated July 14, 1998, claimants were advised of the result of the investigation and were offered the opportunity to respond to or clarify the consultant's report. To date, however, they have not responded. Nor have they submitted any evidence of the confiscation of the building in Mborje, despite numerous requests.

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) (1997).

With regard to the buildings for which they have claimed, the Commission finds that the claimants have not met the burden of proof, in that they have failed to clarify the record as to the ownership of the building located at Lagja Korce or the one at Rruga Kamardes Nr.8, nor have they submitted any evidence of the circumstances surrounding the alleged confiscation of the building located in the village of Mborje. In the absence of such evidence, the Commission must conclude that claimants' claim for the three buildings is not compensable under the terms of the Settlement Agreement. This portion of the claim therefore must be and it is hereby denied.

As for the two parcels of agricultural property, the Commission finds that claimants' late father, Guri Kostandin Buri, a national of the United States, was the owner of real property located in the village of Bulgarec, District of Korce, consisting of 0.4 hectares, or approximately 1 acre of farmland and that he was also the owner of real property located in the village of Plase, consisting of 15,333 square meters or 3.8 acres. The ownership documents indicate that the Bulgarec property was bought at auction in 1942 for 2,200 Albanian francs and that the Plase property was purchased in 1938 for 170 Gold Napoleons.*

*Claimants assert a value of 110 Gold Napoleons for the Bulgarec property but have submitted no evidence in support of such valuation.

Although claimants have provided no specific evidence of the date and circumstances of the Communist confiscation of these two properties, 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 claimants' 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' late father of his property, thus constituting an uncompensated expropriation by the Government of Albania. The claimants have stated that their father's property was confiscated in 1946. In the absence of a more precise date, the Commission will deem the confiscation to have occurred as of January 1, 1946.

Although requested, claimants have failed to submit a copy of their father's will. Instead they have submitted a copy of the Decision of the Trial Court in Tirana dated June 17, 1981, which finds the claimants to be the only

heirs of their mother and father. They have submitted evidence that their father died in Tirana on April 28, 1973, and that their mother died in Tirana on October 7, 1980. In the absence of documentary evidence that claimants inherited their father's entire estate upon his death in 1973, the Commission has no choice but to find that under Section 486 of the 1928 Civil Code of Albania, where a decedent is survived by a spouse, the surviving spouse is entitled to a share equal to that of each child but not to exceed a one-fourth interest in the estate. The Commission therefore finds that this claim, owned by the late Guri Kostandin Buri, devolved upon his death in 1973, in accordance with the inheritance laws of Albania, to his wife, an Albanian national, to the extent of one-fourth, with the remaining three-fourths devolving to the claimants, his two children.

Based on the values indicated in the documents of ownership and based on its own study of the values of various kinds of real property in Albania before and during World War II and thereafter, the Commission finds that claimants' father's land had a value at the time of expropriation of approximately \$300.00 per acre, or \$1,500.00. Accordingly, the claimants are entitled to awards in the principal amount of \$562.50 for their respective three-eighth interests in their father's claim.

To the extent, however, that claimants' claim is based on their inheritance of their mother's one-fourth interest in their father's claim upon their mother's

death in 1980, the Commission lacks jurisdiction over their claim to that one-fourth interest because it was not continuously owned by a United States national; there is no evidence that claimants' mother ever acquired United States nationality before her death. Consequently, any claim for their mother's inherited interest in their father's claim must be and is hereby denied.

The Commission also notes, however, that claimants should be entitled to pursue the claim inherited through their mother through the restitution and compensation program being administered by the Government of Albania (if it is not too late to file a claim there). Indeed, the Settlement Agreement between the U.S. and Albania requires that the Government of Albania afford such U.S. nationals the same rights that it affords Albanian nationals to pursue and receive compensation, restitution or any other remedy available under the domestic restitution and compensation procedures established by that government.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission further concludes that claimants are entitled to interest as part of their awards, 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, each claimant is entitled to an interest award of 235.8 percent of his or her principal award, or \$1,326.38

The Commission therefore withdraws its denial of this claim set forth in the Proposed Decision, and enters the awards 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 International Claims Settlement Act (22 U.S.C. §§ 1624, 1626 and 1627).

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.

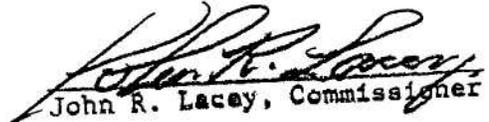
This constitutes the Commission's final determination in this claim.

A W A R D S

Claimant STAVRI GURI BURI is entitled to an award in the principal amount of Five Hundred Sixty-Two Dollars and Fifty Cents (\$562.50), plus interest from January 1, 1946 to April 18, 1995, in the amount of One Thousand Three Hundred Twenty-Six Dollars and Thirty-Eight Cents (\$1,326.38), for a total award of One Thousand Eight Hundred Eighty-Eight Dollars and Eighty-Eight Cents (\$1,888.88).

Claimant MARJETA TRESKA is entitled to an award in the principal amount of Five Hundred Sixty-Two Dollars and Fifty Cents (\$562.50), plus interest from January 1, 1946 to April 18, 1995, in the amount of One Thousand Three Hundred Twenty-Six Dollars and Thirty-Eight Cents (\$1,326.38), for a total award of One Thousand Eight Hundred Eighty-Eight Dollars and Eighty-Eight Cents (\$1,888.88).

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


John R. Lacey, Commissioner

SEP 18 1998


Richard T. White, Commissioner

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, a United States national by birth, seeks compensation for three buildings and two parcels of land said to have been expropriated by the Albanian government in 1946. At that time, according to claimant, the property was owned by his father, Guri Kostandin Buri, who was naturalized as a United States citizen in 1927. The claimant further states that he inherited the right to claim for the property upon the death of his father in 1973.

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 evidence that claimant was living in the United States on April 18, 1995. Nor is there any evidence that the owner of the claim (claimant's father, then -- after his death - - claimant) lived in the United States for at least half of the approximately 49

years between the expropriation of the property in 1946 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 provide information to establish either that he 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. 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.

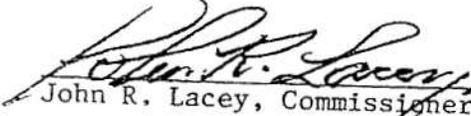
Accordingly, while the Commission sympathizes with claimant for the loss of his family's property, it cannot find -- on the evidence submitted to date -- that this claim is compensable under the terms of the Settlement Agreement. The claim therefore must be and is hereby denied.

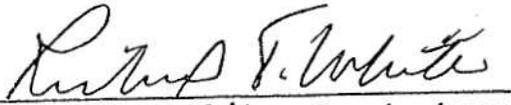
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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).