



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, assertedly all United States nationals by birth,<sup>1</sup> seek compensation for 1.6 hectares of agricultural land in Dardhe, and a two-story, eight-room stone and brick house in Tirana, said to have been expropriated by the Albanian government in 1950 or 1960.<sup>2</sup> At that time, according to claimants, the properties were owned by their father, Kosta Vangjel Raci, who was naturalized as a United States citizen in 1930. Claimants assert that, upon the death of their father in Albania in 1967, his estate devolved in one-fourth shares to his wife and three children; and that, upon the death of their mother in 1984, they each inherited one-third of her estate.

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<sup>1</sup>The U.S. nationality of claimants Vangjel Raci and Vasilika Gjoni is documented in the file; but documentation of the U.S. nationality of Jorgjia Kere has not been submitted.

<sup>2</sup>The file contains conflicting evidence on the date of expropriation. An undated letter from Vangjel Raci (received at the Commission on January 18, 1996) states that the property was expropriated in 1950. In contrast, a March 25, 1996 "Attestation" by officials of the municipality of Drenova states that the expropriation occurred in May 1960.

In support of their claim, claimants have submitted their father's Certificate of Citizenship, U.S. passports for claimants Raci and Gjoni, a death certificate for their father issued in Albania, an "Abridgement" of a 1973 decision of a Korce court certifying the heirs of claimants' father, an "Attestation of Heredity" for claimants' mother, a Certificate of Ownership for 19,280 square meters of property in Dardhe in the name of claimants' father, an "Attestation" by officials of the municipality of Drenova (affirming claimants' father's ownership of 19,280 square meters of property in Dardhe and attesting that it was confiscated on May 24, 1960), and an April 17, 1996 letter from claimant Raci stating that the claimed property has not been returned to his family nor have they been compensated for it.

Unfortunately, the information provided to date is not sufficient to establish the rights of claimants Gjoni and Kere to compensation.

It appears that all the claimants are dual U.S.-Albanian nationals, because their father was an Albanian citizen. Under Albanian law, claimants retain Albanian nationality notwithstanding their U.S. nationality by birth.

Because claimants are dual United States-Albanian nationals, the Commission is constrained to apply the residency requirement in the Agreed Minute to the Settlement Agreement. While the claim form indicates that

claimant Raci began living in the United States in March 1995, there is no evidence that either of the other two claimants were living in this country on April 18, 1995. Nor is there any evidence that the owner of the claim (claimants' father, then -- after his death -- claimants themselves) lived in the United States for at least half the time between the expropriations and April 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 claimants Gjoni and Kere have not met the burden of proof in that they have failed to establish either that they were living in the United States on April 18, 1995 or that the owner of the claim lived in the U.S. for at least half the time between April 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 claimants Gjoni and Kere for the loss of their family's property, it cannot find -- on the evidence submitted to date -- that their parts of the claim are compensable under the terms

of the Settlement Agreement. Their parts of the claim therefore must be and are hereby denied.<sup>3</sup>

Claimant Raci's residence in the United States on April 18, 1995 satisfies the residency requirement; thus, the Commission may consider his part of the claim.

The Commission notes that claimants have submitted no documents to substantiate either the ownership or confiscation of the house in Tirana for which they claim. In the absence of such evidence, that part of the claim must be and is hereby denied.

The claim for the land in Dardhe remains. Based on the evidence in the record, the Commission finds that claimants' father owned 19,280 square meters of agricultural land in Dardhe, which was expropriated by the former Communist regime in Albania on May 24, 1960. The Commission further finds that, upon the death of claimants' father, his estate devolved in equal shares to his wife and

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<sup>3</sup>Although this Commission has no jurisdiction to consider the claims of claimants Gjoni and Kere, they should be entitled to seek relief through the Albanian government. The Government of Albania is obligated by the Settlement Agreement to afford U.S. nationals the same rights it affords Albanian nationals to pursue and receive compensation, restitution or any other remedy available under the domestic restitution and compensation procedures established by the Albanian Government. Settlement Agreement, Article 6. The Commission's May 17, 1996 letters to these claimants advised them to contact the Albanian authorities directly if they wish to pursue such a claim.

three children; and, upon the death of claimants' mother, her estate devolved in equal shares to her three children.

Unfortunately, in the absence of evidence that his mother was a U.S. national, the Commission cannot award claimant compensation for any interest he inherited through her.<sup>4</sup> The ICSA mandates that the Commission decide claims in accordance with international law. 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, it appears that inheritance through claimants' mother broke the continuity of United States

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<sup>4</sup>Just as claimants Gjoni and Kere should be entitled to seek relief for their interests in the claim through the Albanian government, so too claimant Raci should be entitled to seek relief through the Albanian government for that part of the claim which he inherited through his mother, if she was not a citizen of the United States.

ownership of part of the claim. The Commission therefore is limited to consideration of claimant's one-fourth interest in his late father's land.

The Commission further notes that its independent review of documents filed with the local Commission for the Return of and Compensation for Property in Albania indicates that the Albanian authorities have returned 530 square meters of land to claimants' family, which leaves the family uncompensated for 18,750 square meters (1.875 hectares or approximately 4.63 acres) of property.

Claimants assert that their late father's land had a value of approximately \$10 per square meter at the time of confiscation. However, claimants have submitted no evidence to support that figure, which is inconsistent with information provided to the Commission in other cases. 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 claimants' father's land had a value at the time of approximately \$300.00 per acre, and that claimant Raci is entitled to an award in the principal amount of \$350.00 for his one-fourth interest in the outstanding claim for 1.875 hectares, dating from May 24, 1960.

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 the effective date of the Settlement Agreement. Claimant thus is entitled to an interest award of 209.4 percent of his principal award, or \$732.90.

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 authorities 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).

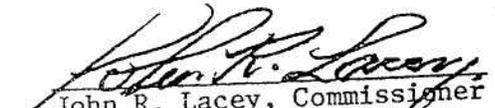
AWARD

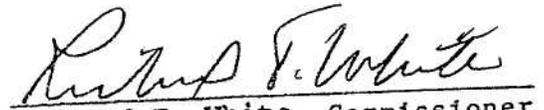
Claimant VANGJEL RACI is entitled to an award in the principal amount of Three Hundred Fifty Dollars (\$350.00), plus interest from May 24, 1960, to April 18, 1995, in the amount of Seven Hundred Thirty-Two Dollars and Ninety Cents (\$732.90), for a total award of One Thousand Eighty-Two Dollars and Ninety Cents (\$1,082.90).

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).