

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

In the Matter of the Claim of

JORGO STOLI

Against the Government of Albania

Claim No. ALB-293

Decision No. ALB-179

Counsel for Claimant:

Leon M. Vainikos, Esquire

Oral Hearing held on April 15, 1997

FINAL DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real and personal property located in Pepel, District of Gjirokaster.

By Proposed Decision entered on November 18, 1996, the Commission denied this claim, on the ground that the claimant had failed to establish that he was the owner of the property for which he had claimed.

By letter dated January 22, 1997, claimant's brother, Nick Stoli, submitted further evidence and, on behalf of his brother, requested leave to appear at an oral hearing which was held on April 15, 1997.*

At the oral hearing, Nick Stoli sought to amend the claim to include both himself and his brother, Gus Stoli, as co-claimants, stating that the confiscated properties for which his brother JORGO STOLI originally claimed were actually owned by their late father, Gregori Stolis, and that upon his death intestate, in 1940, all of his five children inherited interests in the subject properties. Mr. Stoli reiterated his brother's claim for 50 acres of agricultural land, the family home, a barnyard shed and various items of personal property, all said to have been confiscated by the Albanian government in 1947, 1948 and 1962. Mr. Stoli also testified that in 1962 when his brother JORGO STOLI was arrested, the Albanian government took possession of the Stoli family residence to house "Party officials" but that recently the house was returned to the family. Accordingly, he wished to withdraw that portion of the claim relating to the confiscation of the house.

*The new submission suggests that claimant JORGO STOLI was the owner of certain properties that had been confiscated in 1962 subsequent to his arrest, but that claimant was not domiciled in the United States on April 18, 1995, having arrived in the United States in January 1996.

With regard to land confiscated by the Albanian government, Mr. Stoli stated that (1) a man-made lake used for irrigation purposes had encroached on portions of the Stoli family property, and (2) stores built on land owned by the family were returned to the owners of the stores and the Stoli family was never compensated for the land underlying the store structures.

The Commission advised Mr. Stoli that in order for the claim to be amended and adjudicated, he would need to submit supporting evidence establishing his father's ownership of the various properties, the size of those properties and the date that the confiscations took place. In addition, the Commission requested that a Certificate of Inheritance or a Certificate of Family Composition be submitted so as to identify all his father's heirs. Finally, it was explained to Mr. Stoli that in order for claimant JORGO STOLI to be eligible for any award of compensation, JORGO STOLI's residence in the United States as of April 1995 would have to be established.

Subsequent to the oral hearing, by letter dated July 29, 1997, claimant's counsel advised the Commission that Mr. Nick Stoli died suddenly on June 4, 1997 and that his widow wished to attempt to pursue the claim. Not having received the documentary evidence requested, on March 24, 1998, an attorney on the staff of the Commission contacted Mrs. Stoli, and she stated that she

would try to document the date of JORGO STOLI's residence in the United States. On May 1, 1998, Mrs. Stoli contacted the Commission to advise that JORGO STOLI first arrived in the United States on January 30, 1996. No further documentary evidence has been submitted.

The Commission has reviewed the entire record, including the documents and photographs that were submitted by Mr. Nick Stoli, and has also taken note of the testimony given by Mr. Stoli at the oral hearing. The Commission further notes, however, that the record only contains evidence that JORGO STOLI, in his own right, may have owned certain property in Pepel which may have been adversely affected by the actions of the Albanian government. The record before the Commission contains no documentary evidence that any of the property claimed for was owned by his father, Gregori Stolis, and subsequently inherited by any sibling of his who meets the residency requirement.

The Agreed Minute to the Settlement Agreement 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.

Unfortunately, the residency requirement in the Agreed Minute to the Settlement Agreement precludes the Commission's consideration of claimant's claim. While claimant may have lived in the United States briefly in 1996, there is no evidence that he was living in this country on April 18, 1995 (the effective date of the Settlement Agreement). The Commission therefore cannot find that the residency requirement is met as it relates to the claimant.

The Commission sympathizes with claimants whose claims are denied for not having met the residency requirement of the Settlement Agreement and would much prefer to treat the claims of all U.S. national claimants alike, rather than distinguishing among them on the basis of where they lived on a particular date or for a particular period of time. However, under its authorizing legislation, the Commission is required to apply the Settlement Agreement as written, and thus does not have discretion to disregard or refrain from implementing any provision of the Agreement.

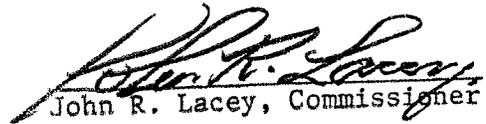
Nor is there any evidence establishing that claimant's father was the owner of any of the property that is the subject of the claim. As such, there is no basis for including any of claimant's siblings as co-claimants in this claim.

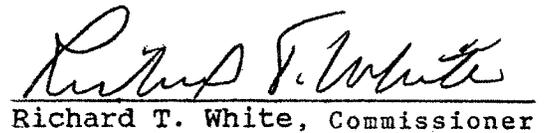
In view of the foregoing, the Commission has no choice but to conclude that the denial of this claim must be and it therefore is hereby affirmed.

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

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

JUN 15 1998


John R. Lacey, Commissioner


Richard T. White, Commissioner

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 -- consisting of 50 acres of land, his family home, a barnyard shed and various personal property items (including livestock, home furnishings and coins) -- was confiscated by the Albanian government in 1947, 1948 and 1962.

At the time of confiscation, according to the claimant, the property was owned

by his father, Grigori Stoli. The claimant has established that he is a national of the United States by birth, and that his father acquired United States nationality by naturalization on December 8, 1925.

By letter dated March 26, 1996, addressed to his attorney, the Commission requested that the claimant submit evidence to establish his father's ownership of the property in question. Claimant's attorney responded by letter dated May 15, 1996, and submitted a copy of the death certificate for claimant's mother, evidence of confiscation of the land, and numerous other documents in support of the claim. However, no documentation of any type, official or not (such as old letters, photos or sworn written statements of former neighbors in Albania), has been submitted to establish ownership of the claimed real property. Nor has claimant submitted any evidence in support of his personal property claim.

Section 531.6(d) of the Commission's regulations provides:

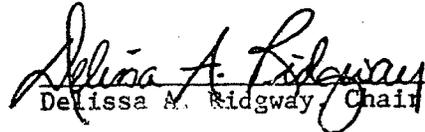
The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his or her claim.

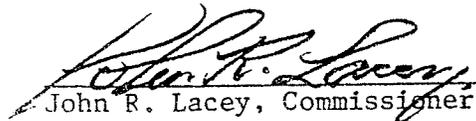
45 C.F.R. 531.6(d)(1995).

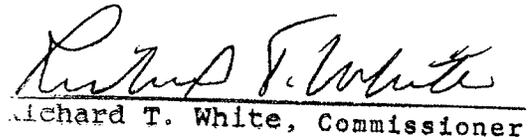
The Commission finds that the claimant has not met the burden of proof in that he has failed to submit supporting evidence to establish his father's ownership of the property which is the subject of his claim. In the absence of such evidence, the Commission is unable to find that this claim is compensable 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.


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner


Richard T. White, Commissioner

This decision was entered as the Commission's Final Decision on JAN 14 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).