

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

In the Matter of the Claim of		
JOHN VASIL NASI		Claim No. ALB-303
Against the Government of Albania		Decision No. ALB-203

PROPOSED DECISION

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

As a preliminary matter, the Commission notes that the claim was received by the Commission after the expiration of the Commission's filing deadline of December 29, 1995. However, the Commission has decided to accept the claim for adjudication on the merits.

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 in this case has stated that the property which is the subject of his claim, consisting of twelve parcels of real property in Rembec, Orman, and a store in the business district of Korce, was confiscated by the Albanian government in 1946. At the time of the confiscation, according to the claimant,

the property was owned by his father, Vasil Nasi (Pengo). The claimant has established that his father acquired his United States nationality by naturalization on May 27, 1929, and that he is a national of the United States by naturalization on July 6, 1942.

The evidence before the Commission includes an ownership certificate from Albania which verifies that the claimant's father, Vasil Nasi Pengo, was the owner, in 1942, of twelve parcels of land, including a house, located in Rembec, Orman.¹ Claimant has also submitted a plat drawing which is said to depict the location of the store in Korce, along with a copy of a photo of the store and a document in the Albanian language titled "VERTETIM PRONESIE."

By letter dated October 3, 1996, the Commission requested that the claimant submit a verified translation of the document in the Albanian language (which appears to refer to his father's ownership of the store in Korce), in addition to some evidence of the date and circumstances of confiscation of all the properties. The Commission also requested that claimant submit a copy of his father's will or a certificate of inheritance identifying claimant as his father's

¹Claimant does not here seek compensation for the house. As discussed below, it appears that the house was the subject of a claim in the Commission's War Claims Program.

heir, and provide responses to various questions left unanswered on the claim form, including the date that the claimant began living in the United States. However, no further response or evidence has been received. In the meantime, the Commission has located the file in the claim submitted by this claimant in the Commission's General War Claims Program, conducted under Title II of the War Claims Act of 1948, as amended (50 U.S.C. App. 2017). Information in that file bears on some of the open issues in the claim now before the Commission. In the War Claims Program, the Commission found that claimant inherited from his father a one-half interest in the Rembec house (which was destroyed in April 1944 in World War II military operations), and awarded him \$1,400.00 for that loss. *Claim of JOHN VASIL NASI*, Claim No. W-14076, Decision No. W-18390 (1966). Information in the War Claims file further indicates that claimant's brother, Gaqo, inherited the other half of their father's estate, and that claimant has been living in the United States since 1935.

Based on the Vertetim Pronesie (ownership certificate) dated November 1942, the Commission finds that claimant's father was the owner of twelve parcels of agricultural property in Rembec, totaling 51.75 *dynym* (5.175 hectares or about 12.8 acres).² Based on the War Claims file, and in the absence of any evidence to the contrary, the Commission further finds that claimant inherited a one-half interest in the claim for those properties upon his father's death.

Moreover, while claimant has submitted no evidence of the date and circumstances of the confiscations of the twelve parcels of property (other than his personal statement that the confiscations occurred in 1946), the Commission is aware that, on or about August 29, 1945, the Albanian Communist regime promulgated the "Agrarian Reform Law." This law 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. This law was then affirmed by the 1946 Albanian constitution, which stated that "land belongs to the tiller." Alb. Const., 1946, Ch. I, Art. 12.

²The independent consultant retained by the Commission has verified this information through the hipoteka in Korce, and advises that there is no record any subsequent sale of any of the properties.

Based on the entire record, the Commission determines that the implementation of the Agrarian Reform Law, coupled with the restrictions placed upon non-farming owners, had the effect of depriving the claimant's father of his agricultural property, and thereby constituted an uncompensated expropriation by the Government of Albania. Based on the statements of claimant here, and in the absence of a more precise date, the Commission will assume confiscation as of January 1, 1946.

Claimant also has submitted no evidence of the value of the Rembec properties. Based on its survey of real property values in Albania before, during and after World War II, and in the absence of any evidence to the contrary, the Commission finds that the land at issue had a value of approximately \$200 per acre at the time of confiscation, or \$2,600.00. For his one-half interest in the claim for the property, claimant is accordingly entitled to an award of \$1,300.00, dating from January 1, 1946.

In contrast to the Rembec properties, however, the evidence submitted to date will not support an award for the real property in the city of Korce.

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 documentation submitted to date appears to indicate that, as of at least 1932, claimant's father was the owner of a three-fourths (3/4) interest in a parcel of land in the Korce market, on which a two-story store stood. Based on the War Claims file, and in the absence of any evidence to the contrary, the Commission could find claimant entitled to a one-half interest in the claim for this Korce property. However, claimant has failed to provide evidence adequately describing the store, or evidence to prove the value of either the store or the land on which it stood. Nor has claimant provided any evidence of the date and circumstances of the confiscation of the land and the store (other than his own statement that it occurred in 1946).³ In the absence of such evidence, the Commission cannot calculate the extent of claimant's loss. The part of the claim for the Korce store and underlying land therefore must be and is hereby denied.

³The Commission's independent consultant has advised the Commission that the store no longer exists.

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 \$3,845.40.

The Commission notes, however, that the records of the Commission for the Return of Property (RCP) in Korce indicate that Maksi Pengo (apparently a nephew of claimant here) has requested compensation for the Rembec properties at issue here – although the RCP has not yet made a decision. Under the terms of the Settlement Agreement, the United States Government has agreed to advise the Albanian authorities of the Commission's issuance of awards, so as to prevent any double recovery. A copy of this decision will therefore be forwarded to the RCP for its information.

The Commission therefore 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 the ICSA (22 U.S.C. §§ 1624, 1626 and 1627).

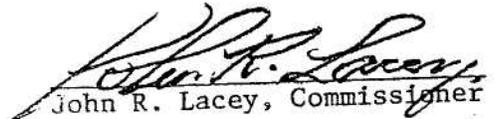
AWARD

Claimant, JOHN VASIL NASI, is entitled to an award in the principal amount of One Thousand Three Hundred Dollars (\$1,300.00), plus interest from January 1, 1946 to April 18, 1995, in the amount of Three Thousand Eight Hundred Forty-Five Dollars and Forty Cents (\$3,845.40), for a total award of Five Thousand One Hundred Forty-Five Dollars and Forty Cents (\$5,145.40).

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

NOV 18 1996


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).