

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

In the Matter of the Claim of	}	
	}	
	}	
ANTHI F. GJONI	}	Claim No. ALB-308
ATHINA GJIKA	}	
KOL GJONI	}	Decision No. ALB-282(R)
	}	
Against the Government of Albania	}	

AMENDED PROPOSED DECISION

This claim against the Government of Albania is based upon the confiscation of real property located in the village of St. Vasil, District of Sarande.

In a Proposed Decision issued on February 24, 1997, the Commission denied this claim because it was not established either that the original claimant in the claim, ANTHI F. GJONI, 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, as required in the Agreed Minute to the U.S.-Albania Claims Settlement Agreement. *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"). The claimant objected to this denial, but after careful review the Commission was constrained to conclude that it had no choice but to affirm the result reached in the Proposed

Decision. Accordingly, the Commission issued a Final Decision on April 21, 1997, affirming the denial of the claim.

By letter dated June 30, 2006, the Commission notified claimant ANTHI F. GJONI that in a Diplomatic Note dated April 27, 2006, the Albanian Minister of Foreign Affairs had advised the United States Embassy in Albania that it accepted and agreed with a proposal made by the United States Government on November 18, 2005, to delete the residency requirement from the Agreed Minute to the Settlement Agreement.

Based on this modification of the Settlement Agreement, the Commission concludes that the claimant is now entitled to further consideration of this claim. Accordingly, the Final Decision in this claim dated April 21, 1997, is hereby withdrawn, and this Amended Proposed Decision shall issue in its place.

In the course of its further review of the file in this claim, the Commission also requested certain additional information and documentation from the claimant ANTHI F. GJONI in support of this claim, including the identities of any siblings who may also have an interest in this claim. In response to this request, the Commission has received requests from his brother and sister, KOL GJONI and ATHINA GJIKA, to be included as co-claimants in the claim. In support of their requests, they also submitted copies of their passports, which indicate that they are

United States citizens by birth. In addition, the record contains previously submitted documentation reflecting that their father, Foto Gjoni, died in Albania in 1944, leaving them and their mother, Kalo Gjoni, as the heirs of his estate in equal shares of one-fourth each. However, there is no indication that their mother, who subsequently died in Albania in 1991, ever held United States citizenship.

Based on the evidence now before it, the Commission determines that KOL GJONI and ATHINA GJIKA qualify as eligible claimants in this claim and therefore are hereby included as co-claimants. In addition, based on the documentation submitted by claimant ANTHI F. GJONI and confirmed by the Commission's independent consultant in Albania, the Commission finds that the claimants' father, Foto Gjoni, owned 1.9 hectares (approximately 4.7 acres) of farmland, 0.2 hectares (approximately 0.5 acre) of vineyard, and 58 olive trees on 1.3 hectares (approximately 3.2 acres) of land in the vicinity of the village of St. Vasil, in the District of Sarande, and that this property was nationalized or otherwise taken by the Albanian government in 1956, when agriculture in that vicinity was collectivized by the government. For lack of a precise date, the taking will be deemed to have occurred as of January 1, 1956. The Commission further finds that at the time of the taking, each of the claimants herein owned a one-fourth interest in the property in question. Accordingly, each claimant is

entitled to an award for the loss of a one-fourth share in the property, dating from January 1, 1956.

The Commission must also conclude, however, that in the absence of evidence showing that the claimants' mother was a United States citizen at the time of the taking, the loss of her share in the property is not compensable under the Settlement Agreement. Accordingly, to the extent that any portion of this claim is based on that loss, such portion of the claim must be and is hereby denied.

As for the value of the claimed property at the time of loss, claimants have not stated what they believe the property to have been worth. As noted, however, some of the parcels had the quality of farmland, while others were planted in grapevines and olive trees, which would have been worth considerably more. Based on comparisons with values attributed to farmland, vineyards, and olive groves in other claims, the Commission determines that the claimants' farmland would have had a value of \$1,500 at the time of loss, and that the vineyards and olive grove would have had a value of at least \$2,500 at the time of loss. Accordingly, each claimant is entitled to an award in the principal amount of \$1,000 for the loss of his or her respective one-fourth share in the property, dating from January 1, 1956.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission further concludes that the claimants are entitled to interest as part of their awards, amounting to 6 percent simple interest per annum from the date of loss to the effective date of the Settlement Agreement. Accordingly, each claimant is also entitled to an interest award of 234.2 percent of his or her principal award.

Under the terms of the United States-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 will therefore be forwarded to the Albanian government in due course.

The Commission therefore makes the following awards, 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 International Claims Settlement Act of 1949, as amended (22 U.S.C. §§1624, 1626, and 1627).

A W A R D S

Claimant, ANTHI F. GJONI, is entitled to an award in the principal amount of One Thousand Dollars (\$1,000.00), plus interest from January 1, 1956, to April 18, 1995, in the amount of Two Thousand Three Hundred Forty-Two Dollars

(\$2,342.00), for a total award of Three Thousand Three Hundred Forty-Two Dollars (\$3,342.00).

Claimant, ATHINA GJIKA, is entitled to an award in the principal amount of One Thousand Dollars (\$1,000.00), plus interest from January 1, 1956, to April 18, 1995, in the amount of Two Thousand Three Hundred Forty-Two Dollars (\$2,342.00), for a total award of Three Thousand Three Hundred Forty-Two Dollars (\$3,342.00).

Claimant, KOL GJONI, is entitled to an award in the principal amount of One Thousand Dollars (\$1,000.00), plus interest from January 1, 1956, to April 18, 1995, in the amount of Two Thousand Three Hundred Forty-Two Dollars (\$2,342.00), for a total award of Three Thousand Three Hundred Forty-Two Dollars (\$3,342.00).

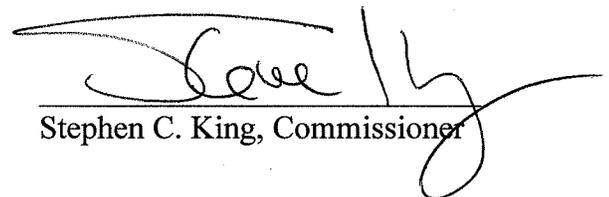
Dated at Washington, D.C. and
entered as the Amended Proposed
Decision of the Commission.

FEB 21 2008

This decision was entered as the Commission
Final Decision on MAR 31 2008



Mauricio J. Tamargo, Chairman



Stephen C. King, Commissioner

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. 509.5 (e) and (g) (2007).

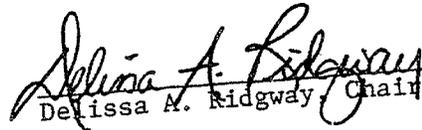
By letter received at the Commission on April 7, 1997, the claimant stated objection to the denial of his claim and requested reconsideration by the Commission. Because claimant has not requested an oral hearing, the Commission issues this Final Decision based on its de novo review of the evidence in the record.

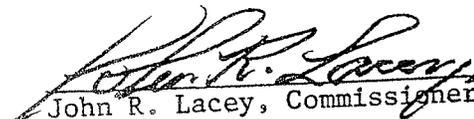
The Commission sympathizes with the claimant and would much prefer to treat the claims of all U.S. national claimants alike, rather than distinguishing among them on the basis of where they lived on a particular date or for a particular period of time. However, under its authorizing legislation, the Commission is required to apply the Settlement Agreement as written. Thus, the Commission has no discretion to disregard or refrain from applying any provision of the Agreement. Accordingly, the Commission has no choice but to conclude that the denial of the claim must be and 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.

APR 21 1997


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner

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

In the Matter of the Claim of

ANTHI F. GJONI

Against the Government of Albania

Claim No. ALB-308

Decision No. ALB-282

PROPOSED DECISION

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

As a preliminary matter, the commission notes that this claim was received by the Commission after the expiration of the Commission's filing deadline of December 29, 1995. The Commission nevertheless has decided to accept the claim for consideration.

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 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 real property, including 1.9 hectares of agricultural land, .2 hectares of vineyard land and 68 olive trees, said to have been expropriated by the Albanian government during the "Albanian government reforms" in 1956. According to documents supplied by claimant, he was then an owner of the property, which he inherited upon the death of his father, Foto Gjoni, in 1944.

Unfortunately, as explained in the Commission's January 7, 1996, letter to claimant and discussed below, the residency requirement in the Agreed Minute to the Settlement Agreement prevents the Commission from considering this claim.

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 abroad to his father (who was naturalized as a U.S. citizen in 1920). ~~7/1/82~~

Because claimant is a dual United States-Albanian national, the Commission is constrained to apply the residency requirement. The claim form indicates that claimant did not commence living in the United States until December 1995. Because claimant was not domiciled in the United States on April 18, 1995, and because claimant was not domiciled in the United States for at least half of the approximately forty years between the expropriation in 1956 and the Settlement Agreement in April 1995, the residency requirement is not satisfied and the Commission lacks jurisdiction over this claim.

Accordingly, while the Commission sympathizes with claimant for the loss of his property, the claim must be and is hereby dismissed for lack of jurisdiction.

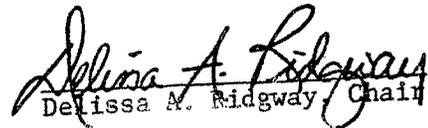
Although this Commission has no jurisdiction to consider the claim, claimant should be entitled to seek relief through the Albanian Government. The Government of Albania is obligated by the Settlement Agreement to afford U.S. nationals the same rights it affords Albanian nationals to pursue and receive 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 January 7,

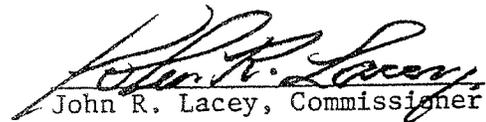
1997, letter to claimant advised claimant to contact the Albanian authorities directly if he wishes to pursue such a claim.

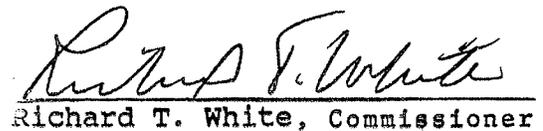
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

FEB 24 1997


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner


Richard T. White, Commissioner

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