

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

In the Matter of the Claim of	}	
	}	
SAMI ZEMBLAKU	}	Claim No. ALB-313
	}	
Against the Government of Albania	}	Decision No. ALB-271

PROPOSED DECISION

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

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).

Claimant here, a United States national by birth, seeks compensation for real and personal property, including 14.65 hectares (about 36.2 acres) of agricultural land, said to have been expropriated by the Albanian government in the agrarian reform of 1945. According to documents supplied by claimant, he was then an owner of the property, which he had inherited upon the death of his father, Hasan Haxhi Zemblaku, in 1937. Claimant also claims for personal property consisting of automobile accessories and miscellaneous foodstuffs allegedly confiscated in early 1945.

In support of his claim, the claimant has submitted a copy of his U.S. passport, a copy of his father's Certificate of Naturalization dated February 3, 1927, certificates of ownership ("Possession Attestations") from the District

Mortgage Office of Korce, a certificate of inheritance, and a list of personal property items that were allegedly confiscated.

The Commission has reviewed the three documents entitled "Possession Attestation" submitted by the claimant. One of those documents indicates that, as of June 24, 1932, Shefki Zemblaku (claimant's uncle) and Hasan Zemblaku (claimant's father) were the registered owners of 70 *dynym* (7 hectares or about 17.3 acres) of land located in the villages of Pendavinj and Kreshpanji, District of Korce. The other two documents indicate that as of 1937 and 1940, Mahmudi Myslym Saliu (claimant's mother) and Shefki Haxhi Zemblaku (claimant's uncle) were the registered owners of various parcels of real property located in the villages of Pojan and Plase, District of Korce, with a total area of 69 *dynym* (about 17 acres). Claimant has stated that his mother and his uncle were not citizens of the United States.

The ICSA mandates that the Commission decide claims in accordance with, *inter alia*, "[t]he applicable principles of international law." ICSA section 4(a)(2), 22 U.S.C. 1623(a)(2). It is a well-established principle of international law, which this Commission has applied without exception, that a claim may be found compensable only if the property which is the subject of the claim was owned by a national of the United States when the property was expropriated or

otherwise taken. *See, e.g., Claim of EUGENIA D. STUPNIKOV Against Yugoslavia*, Claim No. Y-2-0071, Decision No. Y-2-0003 (1967); *Claim of ILONA CZIKE Against Hungary*, Claim No. HUNG-2-0784, Decision No. HUNG-2-191 (1976); *Claim of JOSEPH REISS Against the German Democratic Republic*, Claim No. G-2853, Decision No. G-2499 (1981); *Claim of TRANG KIM Against Vietnam*, Claim No. V-0014, Decision No. V-0001 (1982). This principle has also been recognized by the courts of the United States. *See, e.g., Haas v. Humphrey*, 246 F.2d 682 (D.C. Cir. 1957), *cert. denied* 355 U.S. 854 (1957).

The Commission finds that at the time the properties located in the villages of Plase and Pojan were assertedly taken by the Albanian government, they were not owned by a national of the United States. On the contrary, the record reflects that, when the takings allegedly occurred, the properties were owned by claimant's mother and uncle, both of whom were nationals of Albania.¹ Accordingly, while the Commission sympathizes with the claimant for the loss of those properties, it must conclude that those portions of the claim are not compensable under the terms of the Settlement Agreement.

¹Evidence in the record indicates that claimant's mother died in 1987. There is no evidence of the date of death of claimant's uncle or the identity of his heirs.

The Commission further finds, based on the evidence in the record, that the claimant held an interest in 70 dynyms of land located in the villages of Pendavinj and Kreshpanji, which he inherited from his father in 1937. 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 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 of his interest in his father's property, and thereby constituted an uncompensated expropriation by the Government of Albania. For lack of a specific date, the Commission deems the taking to have taken place as of August 29, 1945.

The claimant asserts that the aggregate total of 14.65 hectares of land owned by his family (though actually totalling 13.9 hectares) had a value at the time of expropriation of \$16,540, which is said to have been the equivalent of

413,500 Albanian Leks and would have been equivalent to about \$457 per acre. However, he has submitted no supporting evidence to substantiate the value of the property.

Based on its study of the values of various kinds of real property in Albania before and during World War II and thereafter, together with the evidence before it in this case, the Commission finds that the claimant's father's property consisting of 35 dynyms (one-half interest in the 70 dynym property jointly owned by claimant's uncle), equivalent to 8.65 acres of agricultural land in the villages of Pendavinj and Kreshpanji had a value at the time of expropriation of approximately \$200 per acre, or \$2,000.00.

The Commission notes that the "Inheritance Certificate" submitted by the claimant indicates that, upon his father's death in 1937, claimant's mother and two siblings together with the claimant each inherited a one-fourth interest in the estate of claimant's father, Hasan Haxhi Zemblaku.²

To the extent, however, that claimant's claim is also based on his inheritance of his mother's one-fourth interest in his father's claim upon his mother's death in 1987, the Commission lacks jurisdiction over that one-fourth

²Claimant's brother, Agim Zemblaku, has filed a separate claim with the Commission (Claim No. ALB-110). Claimant's sister, Merjeme Babani, a resident of Albania, has not contacted the Commission in writing to pursue a claim.

interest because claimant's mother never acquired U.S. nationality. Accordingly, any interest inherited through her was not continuously owned by a U.S. national up to April 18, 1995, the effective date of the Settlement Agreement. Therefore, since the Commission lacks jurisdiction over this part of his claim, claimant should be entitled to pursue it through the restitution and compensation program being administered by the Government of Albania. 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.

Accordingly, the Commission finds the claimant entitled to an award in the principal amount of \$500.00 as compensation for his one-fourth interest in the loss of his share in his father's property, dating from August 29, 1945.

The Commission notes that the claimant has not indicated on the claim form that he is claiming for any personal property. However, he has submitted a list of certain items of personal property which allegedly were owned by the "Zemblaku Brothers" and which were allegedly confiscated by the Albanian government sometime between December 31, 1944 and February 21, 1945.

Without further explanation and evidence as to this portion of the claim, the Commission is unable to find the claimant entitled to an award. Accordingly, that portion of the claim therefore must be and is hereby denied.

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 297.8 percent of his principal award, or \$1,489.00.

The Commission's independent review of documents filed with the Commission for the Return of and Compensation for Property in Korce indicates that by decision No. 579 of December 9, 1994 and decision No. 89 of October 1, 1993, the heirs of Shefki Zemblaku were compensated for 357 square meters of land. Additionally, the heirs of Shefki Zemblaku together with the heirs of Mahmudi Myslim Saliu are recognized as owners of a 5,000 square meters of land located within an industrial zone. The investigation failed to uncover the return of any agricultural property.

Under the terms of the U.S.-Albania settlement agreement, the Commission will advise the Albanian authorities of the issuance of this decision so as to prevent any double recovery.

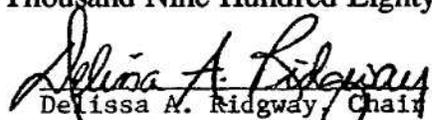
The Commission therefore makes the following award, which will be certified to the Secretary of the Treasury for payment in accordance with sections 5, 7, and 8 of Title I of the ICOSA (22 U.S.C. §§1624, 1626, and 1627).

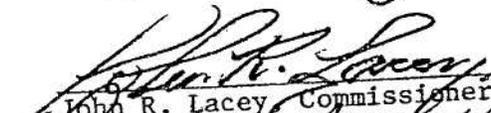
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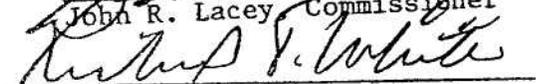
Claimant SAMI ZEMBLAKU is entitled to an award in the principal amount of Five Hundred Dollars (\$500.00), plus interest from August 29, 1945, to April 18, 1995, in the amount of One Thousand Four Hundred Eighty-Nine Dollars (\$1,489.00), for a total award of One Thousand Nine Hundred Eighty-Nine Dollars (\$1,989.00).

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).