

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

In the Matter of the Claim of	}	
MINI DOMNI	}	
BETTY N. ISMAIL	}	Claim No. ALB-334
NAFIJE BROWSH	}	
DOLORES BAROLLI	}	Decision No. ALB-312
GANI BROWSH	}	
PERRI B. GABINET	}	
BAHIR BROWSH	}	
XHENET BROWSH	}	
Against the Government of Albania	}	

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real and personal property in Suk, Bilce, Drobonik and Berat, all in the District of Berat.

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) (2004).

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).

Claimants state that the properties that are the subject of this claim were confiscated between 1946 and 1947, and that at that time they were owned by their father, Azmi Karafil Browsh, a citizen of the United States since 1927. They further state that their father subsequently died in 1975, leaving their mother, Naxhije Maska Browsh, a citizen of the United States since 1937, as the sole heir of his estate, and that upon her death in 2002, her eight children, the claimants herein, inherited her estate in equal shares.* They state that they are all United States citizens by birth.

*In 1996, Naxhije M. Browsh filed a claim with the Commission based upon the alleged confiscation of real and personal property in Dobronik, Berat and Mali Gorica. Claim No. ALB-207, Dec. No. ALB-180. However, the Commission was constrained to deny her claim for failure to meet the burden of proof.

In support of their claim, the claimants have submitted evidence of their United States nationality, copies of "Certificate of Ownership" and "Property Transaction" documents, a copy of a "Contract between Friends", and a copy of their mother's will.

As a preliminary point, the Commission notes that the United States nationality of claimants' parents, Azmi Karafil Browsh and Naxhije M. Browsh, was established in prior Commission decisions. *Claim of AZMI KARAFIL BROWSH*, Claim No. W-16257, Decision No. W-16999 (1966); *Claim of NAXHIJE BROWSH*, Claim No. W-11076, Decision No. W-18080 (1966). In addition, based on the documentation they have submitted, the Commission finds that the claimants' mother was the sole beneficiary of their father's estate at the time of his death in 1975, and that they were the heirs of their mother's estate at the time of her death in 2002.

As for the ownership and loss of the real property which is the subject of the claimants' claim, research conducted by the Commission's independent consultant in the pre-World War II land records located in the National State Archives in Tirana has confirmed the accuracy of the documents of ownership submitted by the claimants. Accordingly, the Commission finds that claimants' father, Azmi Karafil Browsh, was the owner of a total of 423 *dynym* (42.3 hectares or approximately 105.5 acres) of farmland, pasture, and vineyards in and around the villages of

Drobonik, Suk, and Bilce, and the city of Berat. Based on the Commission's consultant's statement in his report that the collectivization of agriculture in the villages of Drobonik and Bilce began in 1952, the Commission further finds that the claimants' father's farmland, pasture, and vineyards were nationalized, expropriated or otherwise taken by the Albanian government as of January 1, 1952. As the residuary beneficiaries of their mother's estate under her will, which included the claim for the loss of claimants' father's property which she had succeeded to under his will upon his death in 1975, each of the claimants herein is accordingly entitled to an award representing one-eighth of the value of their father's property as of the nationalization date of January 1, 1952.

Claimants have asserted that their father's property consisted of a total of 55.2 hectares and had a total value of \$85,070.00 at the time of loss. They have apparently derived this figure based on what they believe was a general average value of farmland in Albania of \$1,000.00 (approximately \$400.00 per acre) in the late 1940's. Included in this total is an asserted value of \$24,000.00 for four houses and an asserted value of \$8,350.00 for various apple, fig and olive trees. However, the Commission determined in its decision on their father's war damage claim, cited above, that a house, a hotel, and a feed store he had owned in Berat were destroyed during World War II, and claimants have submitted no evidence or other substantiation to support a finding that there were any structures still standing on

any of his parcels of real property as of 1952, or that any of the various fruit trees were still standing and producing at that time. In addition, they have attributed hectare measurements to several of the parcels – those covered by the “Contract Between Friends” and some on which fruit trees were said to be standing – that are not reflected in their documentation. Further, it appears to the Commission that the parcel purportedly consisting of 53 *dynym* of land associated with “Attachment E - Property Transaction 21” in their supporting documentation in fact is one of the two parcels of 5 *dynym* each associated with their “Attachment B” and “Attachment C.”

Section 509.5(b) of the Commission's regulations provides:

The claimant will have the burden of proof in submitting evidence and information sufficient to establish the elements necessary for a determination of the validity and amount of his or her claim.

45 C.F.R. 509.5(b)(2004).

The Commission finds that the claimants have not met the burden of proof in establishing the portions of their claim referred to above. Accordingly, those portions of their claim must be and are hereby denied.

As for the portions of the claimants' claim which have been determined to be valid, the Commission finds, based on the record before it and taking into account the values determined for similar property in other claims, that the claimants are entitled to compensation in the total principal amount of \$32,000.00

for the expropriation of property owned by their father, dating from January 1, 1952. Accordingly, each of the claimants is entitled to an award in the principal amount of \$4,000.00 for his or her respective share in the claim for the property's loss, dating from January 1, 1952.

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 259.8 percent of his or her principal award, or \$10,392.00.

Under the terms of the U.S.-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 ICSCA (22 U.S.C. §§1624, 1626, and 1627).

A W A R D S

Claimant, MINI DOMNI, is entitled to an award in the principal amount of Four Thousand Dollars (\$4,000.00), plus interest from January 1, 1952, to April 18, 1995, in the amount of Ten Thousand Three Hundred Ninety-Two Dollars (\$10,392.00), for a total award of Fourteen Thousand Three Hundred Ninety-Two Dollars (\$14,392.00).

Claimant, BETTY N. ISMAIL, is entitled to an award in the principal amount of Four Thousand Dollars (\$4,000.00), plus interest from January 1, 1952, to April 18, 1995, in the amount of Ten Thousand Three Hundred Ninety-Two Dollars (\$10,392.00), for a total award of Fourteen Thousand Three Hundred Ninety-Two Dollars (\$14,392.00).

Claimant, NAFIJE BROWSH, is entitled to an award in the principal amount of Four Thousand Dollars (\$4,000.00), plus interest from January 1, 1952, to April 18, 1995, in the amount of Ten Thousand Three Hundred Ninety-Two Dollars (\$10,392.00), for a total award of Fourteen Thousand Three Hundred Ninety-Two Dollars (\$14,392.00).

Claimant, DOLORES BAROLLI, is entitled to an award in the principal amount of Four Thousand Dollars (\$4,000.00), plus interest from January 1, 1952, to April 18, 1995, in the amount of Ten Thousand Three Hundred Ninety-Two

Dollars (\$10,392.00), for a total award of Fourteen Thousand Three Hundred Ninety-Two Dollars (\$14,392.00).

Claimant, GANI BROWSH, is entitled to an award in the principal amount of Four Thousand Dollars (\$4,000.00), plus interest from January 1, 1952, to April 18, 1995, in the amount of Ten Thousand Three Hundred Ninety-Two Dollars (\$10,392.00), for a total award of Fourteen Thousand Three Hundred Ninety-Two Dollars (\$14,392.00).

Claimant, PERRI B. GABINET, is entitled to an award in the principal amount of Four Thousand Dollars (\$4,000.00), plus interest from January 1, 1952, to April 18, 1995, in the amount of Ten Thousand Three Hundred Ninety-Two Dollars (\$10,392.00), for a total award of Fourteen Thousand Three Hundred Ninety-Two Dollars (\$14,392.00).

Claimant, BAHIR BROWSH, is entitled to an award in the principal amount of Four Thousand Dollars (\$4,000.00), plus interest from January 1, 1952, to April 18, 1995, in the amount of Ten Thousand Three Hundred Ninety-Two Dollars (\$10,392.00), for a total award of Fourteen Thousand Three Hundred Ninety-Two Dollars (\$14,392.00).

Claimant, XHENET BROWSH, is entitled to an award in the principal amount of Four Thousand Dollars (\$4,000.00), plus interest from January 1, 1952, to April 18, 1995, in the amount of Ten Thousand Three Hundred Ninety-Two

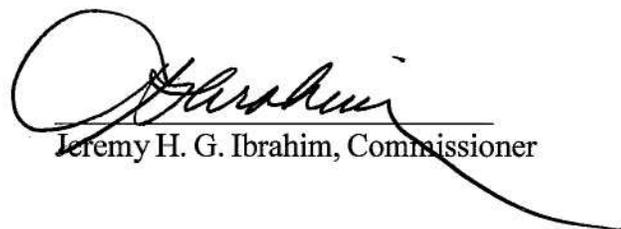
Dollars (\$10,392.00), for a total award of Fourteen Thousand Three Hundred
Ninety-Two Dollars (\$14,392.00).

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

NOV 17 2005



Mauricio J. Tamargo, Chairman



Jeremy H. G. Ibrahim, Commissioner

This decision was entered as the Commission's
Final Decision on DEC. 22 2005

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) (2004).