

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

In the Matter of the Claim of	}	
	}	
	}	
VANGJELI D. BLUSHI	}	Claim No. ALB-026
	}	
	}	Decision No. ALB-241(R)
	}	
Against the Government of Albania	}	

AMENDED PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property located in Remenj, in the District of Pogradec.

By Proposed Decision entered on January 28, 1997, the Commission denied this claim on the ground that the claimant did not satisfy the residency requirement 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"). That provision specified that a claim would not be compensable under the Settlement Agreement unless it was established either that the claimant was residing in the United States as of the agreement's effective date of April 18, 1995, or that the claim was held continuously by one or more

United States nationals residing in the United States for at least half the time between the date the claim arose and April 18, 1995. In the absence of an objection from the claimant, the Commission's Proposed Decision was entered as final on March 25, 1997, in accordance with its regulations.

By letter dated May 26, 2006, the Commission notified the claimant 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 the proposal made by the United States Government on November 18, 2005, to delete the residency requirement from the Agreed Minute to the Settlement Agreement.

As a result of this modification of the Settlement Agreement, the Commission reviewed claimant's file again and requested certain additional information and documentation from the claimant in support of the claim for confiscation of the subject property, which is said to have taken place in 1946.

On July 10, 2006, the Commission received certain additional documents in support of the claim. These documents, which were sent from Albania, included a copy of the death certificate of claimant's father who died in Connecticut on October 28, 1972, a copy of the death certificate of her mother who died in Albania on April 1, 2001, documents pertaining to inheritance and ownership, and copies of decrees from the Albanian Commission on Restitution and Compensation.

The Commission has carefully reviewed the record before it, including the recent submissions. From this review, it appears that claimant, a United States national by birth, seeks compensation for 1.2 hectares of property said to have been expropriated by the Albanian government in the agrarian reform of 1946. At that time, according to the claimant, the property was owned by her father, Dhimitri Thoma (also known as Dimitri Thanas Thoma and Dhimitri Thanas Gusho), who was naturalized as a United States citizen in 1929. Claimant's father subsequently died in Connecticut in 1972 leaving behind his widow, Jorgjia Dhimitri Gusho, and the claimant as his heirs.

The Commission notes that prior to filing a formal claim with the Commission, the claimant had stated in a letter received by the Commission on June 30, 1995 that she and her parents were all United States nationals. However, while the claimant has submitted evidence establishing her own and her father's United States nationality, she has not submitted any evidence of her mother's United States nationality. Furthermore, all the evidence that has been recently submitted refers to claimant's mother, Jorgjia Gusho, as an Albanian national.¹

The claimant has established that her father died in Connecticut in 1972

¹In a recent telephone conversation, claimant's daughter-in-law has orally confirmed that Jorgjia Blushi was not a United States national and that claimant's statement to the contrary must have been the result of a "translation error."

and that he died without a will. Accordingly, since a claim for a loss of property normally is viewed as constituting personal property, the succession in ownership of claimant's father's claim upon his death would have been governed by the descent and distribution laws of the State of Connecticut, the state of his domicile at the time of death. Under that law, it appears that the claimant may have inherited a two-thirds share in her father's claim at the time of his death, with the other one third passing to her mother.²

Under the International Claims Settlement Act of 1949, as amended ("ICSA"), the Commission is required to 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 the law of international claims, which has been applied without exception by both this Commission and its predecessor, the International Claims Commission, that a claim may be found compensable only if it was continuously held by a United States national from the date it arose until the date of settlement. *See, e.g., Claim of PETER D. JANUS Against Yugoslavia*, Claim No. Y-1721, Decision No. Y-0377 (1954); *Claim of MIA FOSTER Against Czechoslovakia*, Claim No. CZ-2696, Decision No. CZ-0001 (1960); *Claim of RICHARD O. GRAW Against Poland*, Claim No. PO-7595, Decision No. PO-8583 (1965).

²1969 Conn. Pub. Acts No. 233.

Accordingly, since it is not established that claimant's mother acquired United States nationality before 1972, the claimant could be said to have a valid claim before the Commission based on a two-thirds inherited share in her father's claim for the confiscation of his property. The other one third inherited by her mother, and later inherited by her from her mother in 2001, would not have qualified as being continuously owned by a United States national. However, this would be true only if it is further established that the claimant has not already been compensated by the Albanian government for the expropriation of her father's property. In this regard, the Commission notes that the document recently submitted by the claimant entitled "Decree No. 38 of July 28, 1997" from the Commission of Restitution and Compensation of Estates for the District of Pogradec awarded claimant bonds worth 94,488 *Leke* as compensation for the loss of her family's property, which was said to measure 15,240 square meters.³ At the exchange rate in effect at that time, that sum was equivalent to about \$844.00.⁴

It was previously explained to the claimant in a letter from the Commission's staff that under the terms of the Agreement between the United States and Albania, there can be no double compensation for the same property.

³This figure is more than the 1.2 hectares that claimant is claiming in her claim before the Commission.

⁴<http://www.economist.com/markets/Currency/graphs.cfm>

To date, however, the claimant has failed to respond to Commission's correspondence on this point.

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.

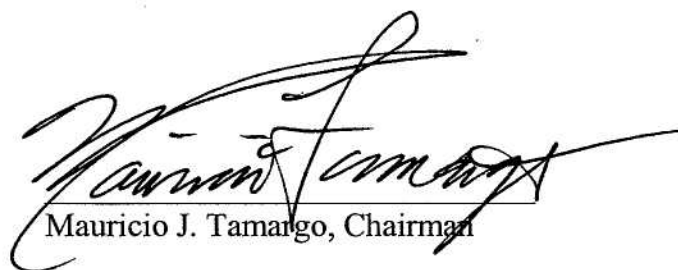
45 C.F.R. 509.5(b)(2006).

Based on its review of the record before it, the Commission is constrained to find that the claimant has not met the burden of proof in establishing the elements of her claim. Even if it is assumed that she inherited a share in her father's claim for the 1946 expropriation of his property, she has submitted no statement or other evidence which would serve to dissuade the Commission from the view that she has already been compensated for the expropriation of her father's property via her evident receipt of vouchers from the Albanian government in July 1997.

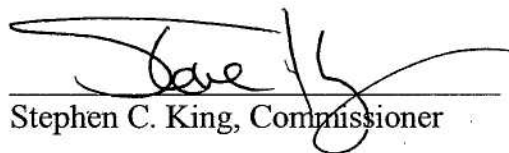
Accordingly, while the Commission sympathizes with the claimant for the loss of her family's property, it must again conclude that her claim is not compensable under the terms of the Settlement Agreement. The claim therefore must again be and is hereby denied.

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

NOV 16 2006



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) (2006).

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

In the Matter of the Claim of

VANGJELI D. BLUSHI

Against the Government of Albania

Claim No. ALB-026

Decision No. ALB-241

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property located in Remenj, in the District of Pogradec.

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 1.2 hectares of property said to have been expropriated by the Albanian government in the agrarian reform of 1946. At that time, according to claimant, the property was owned by her father, Dhimiter Thoma (Dimitri Thanas Thoma), who was naturalized as a United States citizen in 1929 and who died in the United States. The claimant further states that she inherited the right to claim for the property upon the death of her father.*

Unfortunately, the information provided by claimant to date is not sufficient to establish her right to compensation. It appears that claimant is a dual U.S.-Albanian national, because her father was an Albanian citizen. Under Albanian law, claimant retains Albanian nationality notwithstanding her U.S. nationality by birth.

*To substantiate her claim, claimant has submitted several documents in the Albanian language. Although English translations have not been provided, it appears that the documents submitted relate to property in Korce, rather than the property which is the subject of this claim. If claimant can prove that this claim satisfies the residency requirement (as discussed below), she will be required to submit verified English translations of documents establishing the ownership of the property at issue and her rights of inheritance.

Because claimant is a dual United States-Albanian national, the Commission is constrained to apply the residency requirement in the Agreed Minute to the Settlement Agreement. The claim form indicates that claimant herself has never lived in the United States; and claimant has not stated whether her father lived in the United States for at least half of the approximately 49 years between April 18, 1995 and the date the property was expropriated.

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 claimant here has not met the burden of proof in that she has failed to provide information to establish that her father lived in the United States for at least half the time between April 18, 1995 and the date the claim arose. In the absence of such evidence, the Commission is unable to find that the residency requirement in the Agreed Minute to the Settlement Agreement is satisfied.

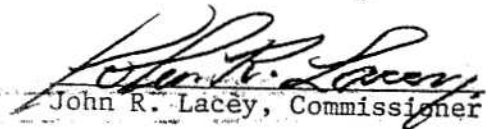
Accordingly, while the Commission sympathizes with claimant for the loss of her family's property, it cannot find -- on the evidence submitted to date -- that this claim is compensable under the terms of the Settlement Agreement. The claim therefore must be and is hereby denied.

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

JAN 28 1997


John R. Lacey, Commissioner


Richard T. White, Commissioner

This decision was entered as the Commission's
Final Decision on MAR 25 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).