

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

In the Matter of the Claim of

ZHANETA FABER

Against the Government of Albania

Claim No. ALB-067

Decision No. ALB-162

Hearing on the record held on February 24, 1997.

FINAL DECISION AND ORDER

This claim against the Government of Albania is based upon the alleged confiscation of several parcels of real property located in Ciflig of Shamoll, District of Korce.

By Proposed Decision entered in this claim on November 18, 1996, the Commission found the claimant entitled to an award of \$533.33 together with interest of \$1,577.60 for her one-third interest in the claim for her father's properties, which had been confiscated in 1946.

After the Proposed Decision issued, the Commission was advised by its independent consultant in Albania that, on November 12, 1996, the Albanian Commission on the Return of and Compensation for Property for the

Municipality of Korce recognized the claimant's father and uncle, Sotir and Pandi Nako, as the rightful owners of 4,000 square meters of land in the city of Korce, and determined that the former owners (or their heirs, as applicable) were to be compensated. By letter dated December 12, 1996, the Commission reported this notification to claimant and advised her that, if the information were accurate, the Commission would be unable to certify her award for payment to the Department of Treasury (because to do so would result in a double recovery with respect to the portion of her claim involving the 4,000 square meters of land in Korce).

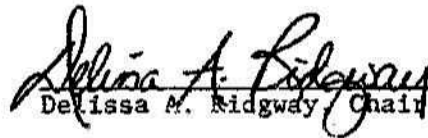
In response, by letter dated December 19, 1997, claimant has notified the Commission that she now wishes to withdraw her claim from further consideration by the Commission. The Commission grants the claimant's request to withdraw her claim and accordingly withdraws the award set forth in the Proposed Decision of November 18, 1996.

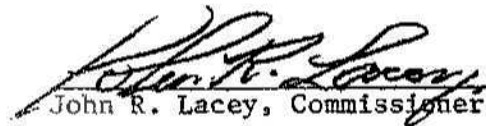
Accordingly, it is ORDERED that the present claim be and it is hereby dismissed without prejudice.

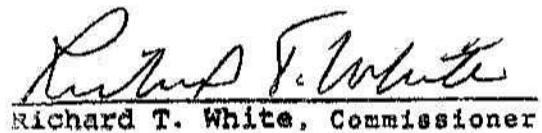
This constitutes the Commission's final determination in this claim.

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

FEB 24 1997


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner


Richard T. White, Commissioner

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In the Matter of the Claim of

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PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of several parcels of real property located in Ciflig of Shamoll, 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).

The claimant herein, ZHANETA FABER, seeks compensation for the alleged expropriation by the Government of Albania in 1946 of 6.3 hectares of land, some of which claimant has described as arable land and some as urban land -- all located within the District of Korçe. At that time, according to claimant, the property was owned by her father, Sotir Ilo Nako, a national of the United States since 1937. The claimant has also stated that her father died intestate in New York on March 31, 1970, leaving his widow Kostage, herself, and her half-brother George as his survivors.

In support of her claim, the claimant has submitted two affidavits, Certificates of Ownership from the Ministry of Justice and the Mortgage Office for the District of Korce, and a document from a court for the District of Korce identifying the claimant as her father's sole heir. The Certificates of Ownership reflect that the properties in question were jointly held by claimant's father, Sotir Ilo Nako and his brother, Pando Ilo Nako.

To establish her United States nationality, the claimant has submitted a copy of her United States passport issued in Tirana on October 14, 1992. She has also submitted letters from the Veterans Administration Center and the Department of Veterans Affairs relating to her father's service as a soldier in the United States Army. According to the claimant, she presented these letters to the United States Embassy in Tirana, which verified that her father was naturalized in New York in 1937. The Embassy subsequently issued the claimant her United States passport. Although the claimant has not submitted a copy of her father's Certificate of Naturalization, the Commission makes the logical inference (based on the evidence in the record) that claimant's father, Sotir Ilo Nako, acquired United States nationality by naturalization at some point prior to claimant's birth on 5 U.S.C. §552(b)(6)

Based on evidence in the record, the Commission further finds that prior to 1946, Sotir Ilo Nako was a fifty-percent owner of 63,000 square meters (63 dynyms) of both arable and urban land located in the District and the city of Korce.

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. In this case, claimant has stated that the property was confiscated in 1946. The two affidavits submitted by the claimant also state that confiscation of the property took place in 1946. For lack of a precise date, the Commission will deem the taking to have occurred as of January 1, 1946.

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

one-half interest in the property in question, and thereby constituted an uncompensated expropriation by the Government of Albania.

The claimant asserts that her father's property had a value at the time of expropriation of \$62,000. She further asserts that her father and uncle had purchased the various parcels in the 1920's for a total of 497 "gold Napoleons," which at the time would have been equivalent to \$1,988.00. However, she has submitted no supporting evidence on this point.

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 located in and in the vicinity of Korce, consisting of one-half of the total of 63 dynyms (as evidenced by the Certificates of Ownership), which is equivalent to 7.78 acres, had a value at the time of expropriation of approximately \$200 per acre, or \$1,600.00. The Commission further finds that this claim, owned by the late Sotir Ilo Nako, whose wife and two children, including the claimant, survived him in 1970, devolved upon his death intestate on March 31, 1970, in accordance with the descent and distribution laws of the state of New York, in one-third shares to his wife, son and the claimant

ZHANETA FABER.* Accordingly, claimant is entitled to an award in the principal amount of \$533.33 as compensation for her portion of the loss of her father's properties, dating from January 1, 1946.

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 her 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 her principal award, or \$1,577.60.

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.

*In light of the fact that the claimant has stated that her father remarried and had other issue, the Commission has disregarded the Certificate of Inheritance submitted by the claimant which states that the claimant is the sole heir.

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).

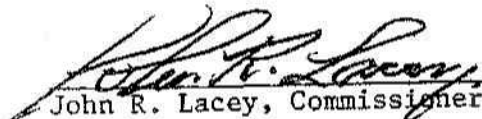
A W A R D

Claimant, ZHANETA FABER, is entitled to an award in the principal amount of Five Hundred Thirty-Three Dollars and Thirty-Three Cents (\$533.33), plus interest from January 1, 1946, to April 18, 1995, in the amount of One Thousand Five Hundred Seventy-Seven Dollars and Sixty Cents (\$1,577.60), for a total award of Two Thousand One Hundred Ten Dollars and Ninety-Three Cents (\$2,110.93).

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

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).