

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

In the Matter of the Claim of

KIKE HAXHI
BUJAR DEMIRALI
ALI DEMIRALI
TEFTA DEMIRALI

Claim No. ALB-086

Decision No. ALB-215

Against the Government of Albania

Counsel for Claimants:

Dan Shaban, Esquire

PROPOSED DECISION

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

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 claimants herein seek compensation for the alleged expropriation by the Government of Albania in 1947 of improved real property, personal property, and agricultural land located in Cipan and Bilisht, District of Bilisht. At that time, according to claimants, the property was owned by their father, Abdul Demirali, a naturalized citizen of the United States who died in Connecticut in 1983.¹ They further assert that at that time any legal interests

¹Claimant TEFTA DEMIRALI is the daughter-in-law of Abdul Demirali. Her late husband, Myfit Demirali, was one of the children of Abdul Demirali.

that Abdul Demirali may have had passed to their mother, Samije Demirali, an Albanian national who died in Connecticut in 1986.²

By letters dated November 30, 1995, the Commission advised the claimants that in order to qualify for compensation under the Settlement Agreement, the confiscated property upon which a claim is based must have been owned by a United States national at the time the property was taken. Claimants were also advised that the claim for the loss of property must have been continuously held by one or more United States nationals from the date of the confiscation until April 18, 1995, the effective date of the Settlement Agreement.

In response, by letter dated May 16, 1996, Agim M. Demirali, Esquire, the son of one of the claimants, advised the Commission that his grandfather, Abdul Demirali, had died intestate in Connecticut and he asserted that, therefore,

²The Commission notes that the claimants' father, Abdul Demirali, had previously filed a claim in the Commission's General War Claims Program, conducted from July 15, 1963 to May 17, 1967. The War Claims file includes documentation which establishes the U.S. nationality of Mr. Demirali. In that program, the Commission made an award of \$1,175.00 for his one-fourth interest in the property consisting of an eight-room house, stable, furniture and related personalty, orchard, including fruit trees and vineyard that was destroyed or lost as a result of German military operations in January 1944. *Claim of ABDUL DEMIRALI*, Claim No. W-10992, Decision No. W-15895 (1966).

his children, the claimants -- in addition to their mother -- would also have inherited a portion of Abdul Demirali's claim.

By Commission letter dated June 7 , 1996, addressed to Agim Demirali, the claimants were asked to provide certain evidence in support of their claim including evidence of their United States nationality, some evidence of their father's ownership of the property which is the subject of the claim, and the identity of all of Abdul Demirali's heirs.

By letter dated July 31, 1996, Dan Shaban, Esquire, acting for the claimants, submitted evidence establishing the United States nationality of Abdul Demirali, TEFTA DEMIRALI, KIKE HAXHI, Myfit Demirali and BUJAR DEMIRALI. In his letter, Mr. Shaban states that the "poor record-keeping at the time of the confiscation makes it virtually impossible to obtain any documentation to verify ownership of the properties." He further states that "there is no such documentation available and they [the claimants] have none in their possession."

Subsequently, on October 4, 1996, the Commission received an affidavit from one Banush Haxhi, who is said to have known the Demirali family in Albania and in the United States. Mr. Haxhi states that he knew that Mr. Abdul

Demirali owned "a considerable number of large fields," many of which "were several acres in size."³

The Commission notes that the claimants are seeking compensation for over 160.5 acres of agricultural property allegedly confiscated by the Albanian government and other personalty. The claimants have stated that no documentary evidence exists to establish their father's ownership of this property. Neither of the two affidavits that have been submitted give any indication of the specific size or location of the property.

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 the claimants have not met the burden of proof in that they have failed to submit supporting evidence to establish the ownership, size, or nature of the agricultural property and related personalty which is the subject of their claim. In the absence of such evidence, the Commission must

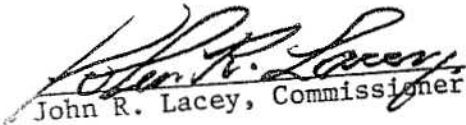
³The affidavit of Rustem Demiraj of September 29, 1995 is virtually the same.

conclude that claimants' claim is not compensable under the terms of the Settlement Agreement. The claim therefore must be and is hereby denied.

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

This decision was entered as the Commission's
Final Decision on JAN 14 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).