

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

In the Matter of the Claim of	}	
	}	
	}	
JANI M. PAPA	}	Claim No. ALB-037
KOSTA M. PAPA	}	
DHIMITER M. PAPA	}	Decision No. ALB-297(R)
	}	
	}	
Against the Government of Albania	}	

AMENDED FINAL DECISION

This claim against the Government of Albania is based upon the confiscation of personal property in the city of Durres.

By Proposed Decision entered on February 24, 1997, the Commission entered an award in favor of KOSTA PAPA in the principal amount of \$3,275.00 (together with an interest award of \$9,153.63), for his inherited one-fourth share in the claim for gold and silver coins confiscated from his father by the Albanian communist regime in 1948. However, the Commission was constrained to deny the portions of the claim asserted by JANI M. PAPA and DHIMITER M. PAPA, because those claimants 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").

By letters dated March 11, 1997, February [sic; March] 14, 1997, and March 14, 1997, the claimants filed objections to the Proposed Decision. However, after careful consideration of their objections in a hearing on the record held on April 15, 1997, the Commission entered a Final Decision affirming the findings and award set forth in the Proposed Decision.

The portions of this claim held by claimants JANI M. PAPA and DHIMITER M. PAPA were denied on the ground that they did not satisfy the residency requirement in the Agreed Minute to the Settlement Agreement. However, the Commission has now been informed that in a Diplomatic Note dated April 27, 2006, the Albanian Minister of Foreign Affairs 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.

Based on this modification of the Settlement Agreement, the Commission concludes that claimants JANI M. PAPA and DHIMITER M. PAPA are now entitled to awards for their respective shares in the claim for the loss of their father's personal property in Durres, in amounts equal to that

received by their brother, KOSTA PAPA. These awards shall also date from September 16, 1948.

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 thus will be forwarded to the Albanian government in due course.

Accordingly, the Commission 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 ICSA (22 U.S.C. §§1624, 1626, and 1627). This constitutes the Commission's final determination in this claim.

#### A W A R D S

Claimant JANI M. PAPA is entitled to an award in the principal amount of Three Thousand Two Hundred Seventy-Five Dollars (\$3,275.00), plus interest from September 16, 1948, to April 18, 1995, in the amount of Nine Thousand One Hundred Fifty-Three Dollars and Sixty-Three Cents (\$9,153.63), for a total award of Twelve Thousand Four Hundred Twenty-Eight Dollars and Sixty-Three Cents (\$12,428.63).

Claimant DHIMITER M. PAPA is entitled to an award in the principal amount of Three Thousand Two Hundred Seventy-Five Dollars (\$3,275.00), plus

interest from September 16, 1948, to April 18, 1995, in the amount of Nine Thousand One Hundred Fifty-Three Dollars and Sixty-Three Cents (\$9,153.63), for a total award of Twelve Thousand Four Hundred Twenty-Eight Dollars and Sixty-Three Cents (\$12,428.63).

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

MAY 24 2006



Mauricio J. Tamargo, Chairman



Stephen C. King, Commissioner



*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").

By letters dated March 11, 1997, February [sic; March] 14, 1997, and March 14, 1997, the claimants filed objections to the Proposed Decision. Claimant JANIM. PAPA objected to the denial of his portion of the claim on the ground that he was unaware of the residency requirement in the Settlement Agreement and was unable to come to the United States sooner because of family matters abroad. Claimant DHIMITER M. PAPA objected to the denial of his portion of the claim on the ground that it is unconstitutional to divide U.S. citizens into two classes on their residence in or outside the United States. Claimant KOSTA M. PAPA also objected, asserting that the Commission had under-valued the gold and silver coins, and claiming that he is entitled to an award for one-third (rather than one-fourth) of the value, based on his status as an heir of his mother. Claimants did not request an oral hearing at which to present their objections, so the Commission has reviewed their objections in a hearing on the record.

Turning first to the objections of JANI M. PAPA and DHIMITER M. PAPA, the Commission sympathizes with the claimants and would much prefer to treat the claims of all U.S. national claimants alike, rather than distinguishing among them on the basis of where they lived on a particular date or for a particular period of time. However, under its authorizing legislation, the Commission is required to apply the Settlement Agreement as written, and thus has no discretion to disregard or refrain from implementing any provision of the Agreement. Accordingly, the Commission has no choice but to conclude that the denial of the portions of this claim held by JANI M. PAPA and DHIMITER M. PAPA must be and is hereby affirmed.

The objections of KOSTA M. PAPA remain. The process by which the Commission determined the valuation of his father's coins, and the facts on which that valuation was based, were explained on page 6 of the Proposed Decision. The claimant has not pointed to any inaccuracy or error in the Commission's calculations, but has simply asserted generally that the valuation should be higher. The Commission has again reviewed those calculations, and is satisfied that they are correct. Accordingly, the valuation set forth in the Proposed Decision is affirmed.

Claimant's contention that he is entitled to an award for one-third of the value of his father's coins, based on inheritance through his mother, is also without merit. As the Proposed Decision explained, the Commission lacks jurisdiction to consider any interest inherited through claimant's mother because there is no evidence that she ever acquired U.S. nationality. Accordingly, that part of the claim was not continuously owned by a U.S. national up to April 18, 1995 (the effective date of the Settlement Agreement). This requirement is well established in the law of international claims and has long been applied by both this Commission and its predecessor, the International Claims Commission. *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).* Accordingly, the denial of claimant's claim for any interest inherited through his mother must also be and is hereby affirmed.

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 thus will be forwarded to the Albanian government in due course.



The award entered in the Proposed Decision in this claim is therefore restated below, and will be certified to the Secretary of the Treasury for payment in accordance with sections 5, 7, and 8 of Title I of the ICSA (22 U.S.C. §§1624, 1626, and 1627). This constitutes the Commission's final determination in this claim.

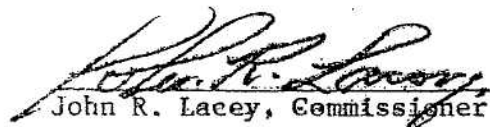
A W A R D

Claimant KOSTA PAPA is entitled to an award in the principal amount of Three Thousand Two Hundred Seventy-Five Dollars (\$3,275.00), plus interest from September 16, 1948, to April 18, 1995, in the amount of Nine Thousand One Hundred Fifty-Three Dollars and Sixty-Three Cents (\$9,153.63), for a total award of Twelve Thousand Four Hundred Twenty-Eight Dollars and Sixty-Three Cents (\$12,428.63).

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

APR 15 1997

  
Delissa A. Ridgway, Chair

  
John R. Lacey, Commissioner

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

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In the Matter of the Claim of	}	
JANI M. PAPA	}	Claim No. ALB-037
KOSTA M. PAPA	}	
DHIMITER M. PAPA	}	Decision No. ALB-297
Against the Government of Albania	}	

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PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of personal property in the city of Durres.

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.

Claimants here, United States nationals by birth, seek compensation for the confiscation of gold and silver coins from their father, Mihal Dhimiter Papa (Michael Pappas), by the government of Albania in 1948. According to the claimants, their father was naturalized as a citizen of the United States in 1929, and died in Albania in 1977. Claimants assert this claim as the heirs of their father.<sup>1</sup>

In support of their claim, claimants have submitted documentation including a copy of the naturalization certificate of their father; copies of their own United States passports; a Certificate of Inheritance; and various documents relating to the confiscation of certain gold and silver coins.

Unfortunately, as explained in the Commission's letters dated May 17, 1996 and May 23, 1996, and discussed below, the residency requirement in the Agreed Minute to the Settlement Agreement precludes the Commission's

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<sup>1</sup>In subsequent correspondence with the Commission, claimant JANI PAPA has stated that they also had claims for real property in Durres and Saranda, but that their real property has been returned to them. He also states that another parcel of real property existed in Saranda that was destroyed during World War II but that he is not claiming for this.

consideration of those parts of the claim belonging to JANI M. PAPA and DHIMITER PAPA.

The Commission is constrained by the Settlement Agreement to apply the residency requirement to the claims of all dual U.S.-Albanian nationals. All three claimants are dual U.S.-Albanian nationals, because their father was an Albanian citizen. Under Albanian law, claimants retain Albanian nationality notwithstanding their U.S. nationality by birth.

While claimant KOSTA PAPA has lived in the United States since October 16, 1993, there is no evidence that claimants JANI PAPA and DHIMITER PAPA were living in this country on April 18, 1995 (the effective date of the Settlement Agreement). Since claimants' father was in Albania at the time of confiscation and died in Albania, it cannot be said that the owner of the claim lived in the U.S. for at least half the time between April 1995 and the expropriation in 1948. The Commission therefore cannot find that the residency requirement is met as to the parts of the claim owned by claimants JANI PAPA and DHIMITER PAPA. Those parts of the claim therefore must be and are hereby denied.

The part of the claim belonging to claimant KOSTA PAPA remains. Because KOSTA PAPA was living in the United States in April 1995, he satisfies the residency requirement. The Commission therefore has jurisdiction to consider his part of the present claim.

Turning to the merits of the claim, the Commission determines that the judgment of the Prefecture Court No. 50, dated September 16, 1948, ratified by the Decision of the Prefecture Lawcourt No. 71, dated January 13, 1949, effectively confiscated gold and silver coins owned by Mihal Papa that had been placed in the custody of the Albanian State Bank. Accordingly, claimant KOSTA PAPA is entitled to an award of compensation for his share in the claim for the resulting loss.

The claimants have not assigned a value to the confiscated gold and silver coins. The Commission notes that the Albanian State Bank at the time assigned a value of 359,486 Albanian francs to the confiscated property. On the bank statement, one gold napoleon is said to have been equivalent to 652 Albanian francs. At the pre-World War II exchange rate, this would have been equivalent to over \$213.00. However, the Commission currency charts<sup>2</sup> show that before

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<sup>2</sup>American International Investment Corp., *World Currency Charts*, Eighth Edition, 1977

World War II, the napoleon's value was \$6.56 (\$1.00 was equal to 3.05 francs, and 1 napoleon equalled 20 francs). The currency charts further indicate that in 1946, the franc was revalued at the rate of 5 "old francs" to 1 "new franc," and that after August 1947 5.5 "new francs" equalled \$1.00. Accordingly, 27.5 "old francs" was equal to \$1.00 in 1948. In view of these facts, the Commission must assume, and accordingly finds, that the valuations by the Albanian State Bank were expressed in terms of "old francs." Applying the exchange rate of 27.5 francs to \$1.00, the Commission therefore finds that the gold and silver coins in question had a value at the time of confiscation of \$13,072.22 or, in round figures, \$13,100.00.

The "Heirship Attestation" No.800 dated July 29, 1993 submitted by the claimants indicates that Mihal Papa was survived by his wife, Fotini Papa, and three sons, and that each was found entitled to a one-fourth interest in the estate of Mihal Papa. Accordingly, the Commission finds claimant KOSTA PAPA entitled to an award in the principal amount of \$3,275.00 as compensation for his one-fourth interest in the loss of his father's personal property. This award shall date from the date of confiscation, namely, September 16, 1948.

To the extent, however, that claimant's claim is also based on his inheritance of part of his mother's one-fourth interest in his father's claim, the

Commission lacks jurisdiction over that interest because there is no evidence that claimant's mother ever acquired U.S. nationality. Accordingly, that part of the claim was not continuously owned by a U.S. national up to April 18, 1995 (the effective date of the Settlement Agreement) and cannot be considered by the Commission.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission further concludes that claimant KOSTA PAPA 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 279.5 percent of his principal award, or \$9,153.63.

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 thus will be forwarded to the Albanian government in due course.

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 ICSA (22 U.S.C. §§1624, 1626, and 1627).



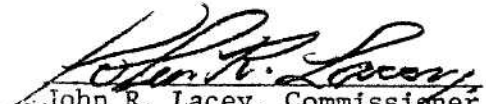
A W A R D

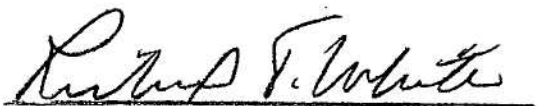
Claimant KOSTA PAPA is entitled to an award in the principal amount of Three Thousand Two Hundred Seventy-Five Dollars (\$3,275.00), plus interest from September 16, 1948, to April 18, 1995, in the amount of Nine Thousand One Hundred Fifty-Three Dollars and Sixty-Three Cents (\$9,153.63), for a total award of Twelve Thousand Four Hundred Twenty-Eight Dollars and Sixty-Three Cents (\$12,428.63).

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

  
Delissa A. Ridgway, Chair

FEB 24 1997

  
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).