

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

FEJZI ISA DOMNI

Against the Government of Albania

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Claim No. ALB-064

Decision No. ALB-272

Oral Hearing held on April 15, 1997.

FINAL DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real and personal property located in Tirana.

By Proposed Decision entered on February 24, 1997, the Commission made an award to claimant in the principal amount of \$8,000.00, plus interest (from April 28, 1976, to April 18, 1995) in the amount of \$9,104.00, as compensation for the loss of his one-half interest in a three-bedroom house in Tirana which was destroyed by the Albanian government in 1976. The Commission denied the claim for loss of personal property for lack of evidence.

By letter dated March 9, 1997, claimant objected to the Proposed Decision. Claimant argued that, because his stepmother died in 1992 and because the District Court in Albania has since found him to be the sole owner of his father's estate, the Commission should compensate him for his current entire interest in the claim for the property in issue.

The reasoning behind the Proposed Decision was set forth therein, and was again explained in the staff's March 12, 1997 letter to claimant. There, the staff advised that the U.S.-Albanian Claims Agreement covers only claims in which the property at issue was owned by a United States national at the time of confiscation. The letter noted that, when the property in question here was confiscated in 1976, only one-half of the property was owned by a United States national (namely, claimant). The letter also explained that the Agreement covers only cases in which the claim for the loss has been *continuously* held by one or more United States nationals from the date of confiscation until April 18, 1995 (the effective date of the Agreement). In this case, the claim for the other one-half interest in the property was owned by claimant's stepmother, an Albanian national, until her death in 1992.

By facsimile letter dated March 14, 1997, claimant requested an oral hearing, which was held on April 15, 1997. At the oral hearing claimant appeared on his own behalf, reiterating that his father died in April 1951; that he (claimant) became a U.S. citizen in 1959; and that the property in question was confiscated in 1976. He further reiterated that his stepmother, an Albanian national, died in 1992. According to claimant (who has a lawyer in Albania representing his interests there), when the Albanian government destroyed the house in 1976, it gave a one-half interest in the house to him and a one-half interest to his stepmother, Halise Domni. Claimant argued that, since the house, the lot and everything in the house was assertedly taken by the Albanian government, the Commission should compensate him for the entire resulting loss. Claimant contended that it is unlikely that the Albanian government will compensate him for the other one-half.

At the hearing, claimant also objected for the first time to the denial of his claim for personal property (including, *inter alia*, books, violins, and his mother's dowry/hope chests). Claimant stated that he does not know what happened to the personal property. According to claimant, the house was initially inhabited by strangers; later, his cousin lived in the house as a tenant, with claimant's aunt and stepmother. At the hearing, claimant testified that the

house was almost empty when his cousin moved in, but that he did not know what had happened to the personal property. Claimant also testified that his cousin told him that the "hope chest" was considered a national treasure and had been confiscated by the government. However, the Commissioners pointed out to claimant at the hearing that, although claimant's cousin submitted an affidavit in support of the instant claim, the affidavit was silent as to any personal property, its description, its confiscation or its value. Claimant responded that his cousin told him that he did not know anything, that he was not the only tenant, and that there were prior tenants in the house. Claimant testified further that he had not asked his cousin to describe the contents of the house, because he was only a little boy at the time.

The Commission also questioned whether claimant's stepmother received any compensation from the Albanian government. Claimant testified that she received several paintings and "a couple of Persian rugs" when the house was destroyed.

In closing, claimant asserted that he would have inherited the entire property from his father, under customary Albanian law. However, as the Commission pointed out to claimant, the 1928 pre-Communist Civil Code of Albania provides that, in the absence of a will, the spouse and children inherit

equally. Claimant testified at the hearing that he did not know whether his father left a will. The Commission adjourned the hearing, advising claimant that, in order to prevail in his objection, he would have to either provide a copy of his father's will, or show that his stepmother was not a 50% owner of the property in 1976, or demonstrate that the Commission's interpretation of the 1928 Civil Code was in error.

In addition, the Commission advised the claimant that he would need to prove the existence and valuation of the personal property at issue, and that the burden would be on him to establish the approximate date and the circumstances of that confiscation -- that is, that the personal property was confiscated by the Albanian government and not looted by vandals. The Commission agreed to hold the file open to allow claimant additional time to obtain further evidence.

By letter dated August 27, 1997, claimant submitted an inventory of the personal property at issue, assigning a value of approximately \$19,000 to it. By letter dated September 9, 1997, claimant again submitted a "Heritage Certificate," which reflects that he and his stepmother were considered his father's heirs in 1976, and that claimant was deemed the "only rightful heir" after his stepmother's

death, in 1993. Finally, claimant resubmitted an "Ownership Certification" dated August 1, 1995, indicating that he is the registered owner of a "free construction site with surface 261 square meters," and that the property was so registered based on the Decision of the Property Restitution Committee No. 128, dated June 22, 1995.<sup>1</sup>

The Commission has again reviewed the entire record in this matter, including the recently submitted documents. However, claimant has submitted no evidence that he was the sole heir of his father upon his father's death in 1951, or that he was the owner of the entire property in 1976. In his letter of August 27, 1997, he advised the Commission that neither his father, mother nor stepmother left a will, asserting that it was not necessary because he was the only living child and legal heir.

Claimant emphasizes that his Albanian attorney took legal action through the Justice Ministry in Albania to "reverse the one-half interest of the house in [his] favor as the sole legal heir of [his stepmother's] share." But the fact that Albanian authorities find that claimant is *now* the sole owner of the claim for the

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<sup>1</sup>At the oral hearing, claimant testified that the land and the foundation have been returned to him.

property does not affect the Commission's jurisdiction; it is not a determination that claimant was the sole heir of his father in 1951, or that he was the sole owner of the property at the time of its confiscation in 1976. In short, claimant cannot show that the second half of the property at issue was owned by a U.S. national at the time of confiscation. Under the circumstances, there is no basis on which to change the result reached on that part of the claim in the Commission's Proposed Decision.<sup>2</sup>

The claim for the loss of personal property remains. Although claimant has now submitted a more detailed inventory of the personal property at issue, he has submitted no evidence concerning the date and circumstances of its alleged confiscation. Indeed, claimant's August 27, 1997 letter states that "the loss of the most valuable objects inside my house must have happened after the death of my father in April 1951." However, since claimant's father never acquired U.S. nationality and claimant himself was not naturalized until 1959, any confiscation

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<sup>2</sup>Because the Commission lacks jurisdiction over the claim for the second half of the confiscated house, claimant should be entitled to relief through the restitution and compensation program being administered by the Government of Albania (if it is not too late to file a claim there). Indeed, the Settlement Agreement between the U.S. and Albania requires that the Government of Albania afford such U.S. nationals the same rights that it affords Albanian nationals to pursue and receive compensation, restitution or any other remedy available under the domestic restitution and compensation procedures established by that government.

that may have taken place between 1951 and 1959 did not affect the rights of a U.S. citizen. The Commission thus lacks jurisdiction over any such claim. In any event, the evidence of record still fails to establish the date of the confiscation or, more importantly, that the personal property was seized by the Communist regime (rather than looted by vandals). Thus, here too there is no basis on which to change the result reached in the Commission's Proposed Decision.

For the reasons set forth above, the Proposed Decision of February 24, 1997 – including the award for claimant's one-half interest in the claim for his family's real property – must be and is hereby affirmed. That award is 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 ICSCA (22 U.S.C. §§1624, 1626, and 1627). This constitutes the Commission's final determination in this claim.



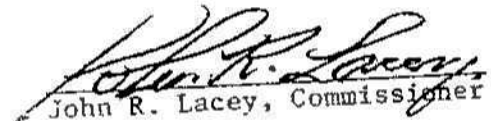
AWARD

Claimant FEJZI ISA DOMNI is entitled to an award in the principal amount of Eight Thousand Dollars (\$8,000.00), plus interest from April 28, 1976, to April 18, 1995, in the amount of Nine Thousand One Hundred Four Dollars (\$9,104.00), for a total award of Seventeen Thousand One Hundred Four Dollars (\$17,104.00).

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

**APR 16 1998**

  
Delissa A. Ridgway, Chair

  
John R. Lacey, Commissioner

  
Richard T. White, Commissioner

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**PROPOSED DECISION**

This claim against the Government of Albania is based upon the alleged confiscation of real and personal property located in Tirana.

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 seeks compensation for the alleged expropriation in 1976 by the Government of Albania of a three-bedroom house located at Rruga Budi No.6, Tirana. Claimant asserts that his father, Hafiz Isa Domni, an Albanian national, built the house in 1937; that his father died in 1951; and that at that time the property passed to him by inheritance. Claimant further asserts that the house was demolished by the government to make way for construction of a road, and that he was never compensated for the resulting loss.

In support of his claim, the claimant has submitted documentation reflecting his naturalization as a United States citizen on 5 U.S.C. §552(b)(6) , as well as a Certificate of Ownership, a copy of Decision No. 128 dated June 22, 1995, issued by the Commission for the Restitution of and Compensation for Property (CRCP) for the Municipality of the City of Tirana, plans of the house, a third-party affidavit, and the death certificates of his parents.

The evidence in the record reflects that claimant's mother died in 1944 and his father died in 1951. Claimant has stated that he is his parent's only child and heir, and this statement appears to be corroborated by the fact that he is recognized in the CRCP decision referred to above as record owner of the house in question. However, other evidence in the record, consisting of a copy of a document identified as Note No. 223, dated August 23, 1976, registered in the Hipoteka of Tirana, indicates that the property was registered in the name of both the claimant and his stepmother, Hali Domni. The record further reflects that the property was expropriated by Decision of the Executive Committee of the People's Council of the District of Tirana Nr. 71 dated April 28, 1976.

Based on the foregoing, the Commission finds that the claimant is entitled to an award of compensation for the expropriation of his interest in the house in question. However, in view of his stepmother's apparent joint ownership of the

property, the Commission is not persuaded that a basis exists in the record for a finding that claimant was the sole owner of the house at the time it was expropriated. Moreover, even if his stepmother's share in the house did pass by inheritance to him at some point, he has not established that the passage occurred before April 28, 1976 or -- if it did not -- that his stepmother was a United States national on the date of the expropriation. Accordingly, his award will be limited to the value of one-half of the house at the time of its expropriation.\*

The claimant has variously asserted a value figure of either \$40,000.00 or \$50,000.00 for the house, including the value of the personal property therein. He has also stated, however, that his father built the house at a cost of 450 gold napoleons in 1937. At the exchange rate then in effect, this would have been equivalent to about \$2,950.00.

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\*Claimant's letter of February 14, 1997 simply emphasizes that he is presently the sole owner of the claim for the house and the land. Claimant has provided no evidence to prove either that he inherited his stepmother's interest in the properties before they were confiscated or -- if not -- that his stepmother was a U.S. citizen on the date of expropriation. In the absence of such evidence, the Commission cannot find that this part of the claim has been continuously owned by a U.S. national from the date of the expropriation.

Based on its careful review of the evidence submitted, and a comparison of this case with others in which property values have been established, the Commission finds that the house here in question, located at Rruga Budi No. 6 in Tirana, had a value in 1976 of \$16,000.00. Accordingly, the Commission finds the claimant entitled to an award of \$8,000.00 for his one-half interest in that property, dating from April 28, 1976.

As noted, the claimant also seeks compensation for the loss of personal property contained in his house at the time of its expropriation. He states that this loss is difficult for him to assess, but he asserts that he lost at least three violins, his personal library of 100 books and two antique hope chests. However, he has also submitted the affidavit of one Veli Islami, whom the claimant has subsequently identified as his cousin, who states that he lived as a tenant in the house until 1976.

That affidavit is silent as to the existence any of claimant's personal property. Moreover, claimant has stated (in a telephone conversation with the staff of the Commission) that his cousin lived in the house from 1951 until 1976. In view of these statements, the Commission is not persuaded that there is sufficient evidence in the record upon which to base an award for the loss of any personal property. Accordingly, this portion of the claim must be and is hereby denied.

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 his award, amounting to 6 percent simple interest per annum from the date of loss to the effective date of the Settlement Agreement. Accordingly, the claimant is entitled to an interest award of 113.8 percent of his principal award, or \$9,104.00.

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.

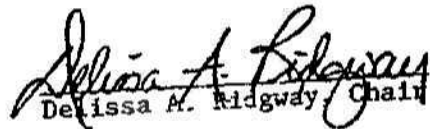
The Commission therefore makes the following award, which will be certified to the Secretary of the Treasury for payment in accordance with sections 5, 7, and 8 of Title I of the ICOSA (22 U.S.C. §§1624, 1626, and 1627).

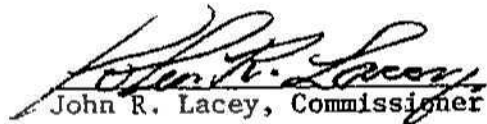
AWARD

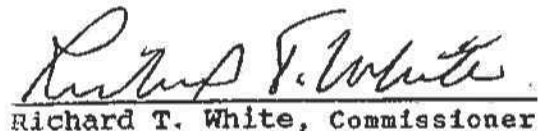
Claimant FEJZI ISA DOMNI is entitled to an award in the principal amount of Eight Thousand Dollars (\$8,000.00), plus interest from April 28, 1976, to April 18, 1995, in the amount of Nine Thousand One Hundred Four Dollars (\$9,104.00), for a total award of Seventeen Thousand One Hundred Four Dollars (\$17,104.00).

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

FEB 24 1997

  
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) (1994).