

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

In the Matter of the Claim of

MARJANTHI TRAKO ✓
VASILIKA SAMSURI ✓
EFIGJENI QERAMIXHI ✓
BEATRIKA PANARITI ✓
ROMANA PETRO ✓
ADRIANA TOPORE
KOZETA VASILI
MAILINDA TOPALLAJ

Against the Government of Albania

Claim No. ALB-341

Decision No. ALB-326

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property in the village of Zicisht, District of Devoll.

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) (2006).

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).

Claimants state that the properties that are the subject of this claim were confiscated in April 1958, at which time they were owned by their father, Logar Nickolas (also known as Llazo Nikolla Kote), who was naturalized as a United States citizen in 1918. The claimants further state that Lefkothe Toce, one of the daughters of Logar Nickolas, died in Albania in February 1995 survived by her husband, Kristaq Toce, and their three daughters, all of whom were Albanian citizens on the date of her death.

In support of their claim, the claimants have each submitted evidence of their United States citizenship as well as that of Logar Nickolas, along with the death certificates of Logar Nickolas, Lefkothe Toce and Kristaq Toce and a Certificate of Ownership identifying the properties for which they claim.

With regard to the ownership and loss of the subject property, a search of the land records conducted by the Commission's independent consultant in Albania of the pre-World War II land records located in the Regional Cadastral Archives in Devoll has confirmed that the property in question was owned by Logar Nickolas at the time that the property was

confiscated by the Albanian government. Based on this information, the Commission finds that Logar Nickolas was the owner of a total of 1.15 hectares (approximately 3 acres) of agricultural land in the village of Zicisht.

The Commission is aware that, on or about August 29, 1945, the Albanian Communist regime promulgated the "Agrarian Reform Law," which 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. That law was affirmed by the 1946 Albanian constitution, which stated that "land belongs to the tiller." Alb. Const., 1946, Ch. I, Art. 12. The claimants have asserted that the land claimed herein was taken by the Albanian government in April 1958. The Commission, therefore, finds that Logar Nickolas's land in Zicisht was nationalized, expropriated or otherwise taken by the Albanian government as of April 1, 1958.

The claimants have provided evidence that their father, Logar Nickolas, died in Albania in 1972 and have submitted a copy of a Certificate of Family Composition. Because the claimants have not provided a copy of Mr. Nickolas' will, the Commission will consider Mr. Nickolas as having died intestate. The Commission is familiar with the Albanian law of inheritance which allows for the surviving spouse and children of a decedent to each receive equal shares of the estate¹. At the time of his death, Mr. Nickolas was survived by his wife, Athina Kote, an Albanian citizen, and his six daughters, all United States citizens. Therefore, the Commission

¹ Decree no. 1892 on Inheritance, in Gazeta Zyrtare e R.P.SH. (Official Gazette of the People's Republic of Albania), no. 11 of 1954, as amended by Law no. 3169 of November 26, 1960 published in Gazeta Zyrtare no. 13, 1960 Chapter II Art. 21

concludes that Mr. Nickolas's wife and six daughters each inherited a one-seventh interest in the claim of Logar Nickolas.

As noted above, however, Lefkothe Toce, one of the daughters of Logar Nickolas and Athina Kote, died in February 1995 in Albania. Because the claimants have not provided a copy of Mrs. Toce's will, the Commission will consider Mrs. Toce as having died intestate. The Commission has reviewed the Certificate of Family Composition submitted by the claimants and Albanian law regarding intestate succession² in effect at the time of Mrs Toce's death. Based on its review the Commission concludes that Mrs. Toce's heirs were her surviving husband, Kristaq Toce, and her daughters, ADRIANA TOPORE, KOZETA VASILI, and MAILINDA TOPALLAJ. Therefore, Mrs. Toce's husband and her three daughters each would have inherited a one-twenty-eighth interest in the claim of Logar Nickolas. However, the Commission notes that none of these individuals was a national of the United States at the time of Mrs. Toce's death.

The ICSA mandates that the Commission 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

² Part III Title II (Succession by law) of the Civil Code of Albania, article 361 provides that "in the first grade the children and the spouse able or unable to work are called to inheritance, each inheriting in equal parts."

date of settlement. *See, e.g., Claim of ESTATE OF JOSEPH KREN, DECEASED, BY MAGDALENA KREN, EXECUTRIX against Yugoslavia*, Claim No. Y-0660, Decision No. Y-1171 (1954); *Claim of RICHARD O. GRAW against Poland*, Claim No. PO-7595, Decision No. PO-8583 (1965); *Claim of RALPH F. GASSMAN against German Democratic Republic*, Claim No. G-2154, Decision No. G-1955 (1980); *Claim of DUDE PRIFTI against Albania*, Claim No. ALB-054, Decision No. ALB-157 (1997). The Commission, therefore, finds that the one-seventh interest in the claim inherited by the surviving children of Logar Nickolas, namely, MARJANTHI TRAKO, VASILIKA SAMSURI, EFIGJENI QERAMIXHI, BEATRIKA PANARITI, and ROMANA PETRO qualify for compensation because that portion of the claim was continuously owned by a United States national from the date of expropriation, April 1, 1958, to the date of the Settlement Agreement, April 18, 1995. However, the interest in the claim inherited by Athina Kote, Kristaq Toce, ADRIANA TOPORE, KOZETA VASILI, and MAILINDA TOPALLAJ must be and is hereby denied for lack of continuous ownership by a United States national.

In order to determine the value of the properties being claimed for at the time of taking, the Commission has relied 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. Based on this information, the Commission finds that the property in question had a value of approximately \$300 per acre, or \$900, at the time of expropriation on April 1, 1958.

Accordingly, MARJANTHI TRAKO, VASILIKA SAMSURI, EFIGJENI QERAMIXHI, BEATRIKA PANARITI, and ROMANA PETRO

is each entitled to an award in the principal amount of \$129.00 for her respective interest in this claim, all dating from April 1, 1958.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission further concludes that the claimants are entitled to interest as part of their awards, amounting to 6 percent simple interest per annum from the date of loss to the effective date of the Settlement Agreement. Accordingly, each claimant is also entitled to an interest award of 222.4 percent of her principal award.

Under the terms of the United States-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 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).

A W A R D S

Claimant, MARJANTHI TRAKO, is entitled to an award in the principal amount of One Hundred Twenty-Nine Dollars (\$129.00), plus interest from April 1, 1958, to April 18, 1995, in the amount of Two Hundred Eighty-Five Dollars and Ninety-Eight Cents (\$285.98), for a total award of Four Hundred Fourteen Dollars and Ninety-Eight Cents (\$414.98).

Claimant, VASILIKA SAMSURI, is entitled to an award in the principal amount of One Hundred Twenty-Nine Dollars (\$129.00), plus interest from April 1, 1958, to April 18, 1995, in the amount of Two

Hundred Eighty-Five Dollars and Ninety-Eight Cents (\$285.98), for a total award of Four Hundred Fourteen Dollars and Ninety-Eight Cents (\$414.98).

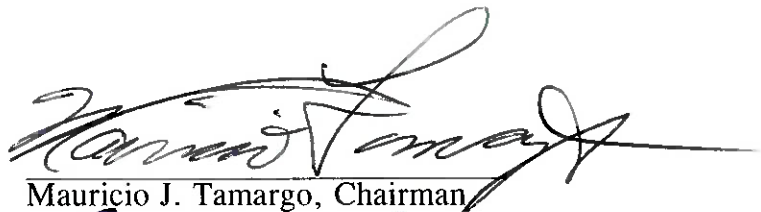
Claimant, EFIGJENI QERAMIXHI, is entitled to an award in the principal amount of One Hundred Twenty-Nine Dollars (\$129.00), plus interest from April 1, 1958, to April 18, 1995, in the amount of Two Hundred Eighty-Five Dollars and Ninety-Eight Cents (\$285.98), for a total award of Four Hundred Fourteen Dollars and Ninety-Eight Cents (\$414.98).

Claimant, BEATRIKA PANARITI, is entitled to an award in the principal amount of One Hundred Twenty-Nine Dollars (\$129.00), plus interest from April 1, 1958, to April 18, 1995, in the amount of Two Hundred Eighty-Five Dollars and Ninety-Eight Cents (\$285.98), for a total award of Four Hundred Fourteen Dollars and Ninety-Eight Cents (\$414.98).

Claimant, ROMANA PETRO, is entitled to an award in the principal amount of One Hundred Twenty-Nine Dollars (\$129.00), plus interest from April 1, 1958, to April 18, 1995, in the amount of Two Hundred Eighty-Five Dollars and Ninety-Eight Cents (\$285.98), for a total award of Four Hundred Fourteen Dollars and Ninety-Eight Cents (\$414.98).

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

JUN 25 2009


Mauricio J. Tamargo, Chairman


Rafael E. Martinez, Commissioner

This decision was entered as the Commission's Final Decision on

JUL 30 2009

JUL 30 2009

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) (2007).