

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

In the Matter of the Claim of	}	
	}	
	}	
DHEMITRULA A. MENKA	}	Claim No. ALB-316
KOSTA FARMAQI	}	
KOZETA SIMO	}	
KRISTINA PONI	}	Decision No. ALB-306(R)
	}	
Against the Government of Albania	}	

AMENDED FINAL DECISION

This claim against the Government of Albania is based upon the confiscation of real property located in Qyteze, District of Devoll.

By Proposed Decision entered on October 29, 1998, the Commission entered an award in favor of DHEMITRULA A. MENKA in the principal amount of \$400.00, together with an interest award of \$943.20, for her inherited one-sixth interest in the claim for the loss of her father's agricultural property in Qyteze, dating from January 1, 1956. In the absence of an objection from the claimant, the Commission's Proposed Decision was entered as final on December 4, 1998, in accordance with its regulations.

At that time, however, the Commission did not consider the potential claims of claimant's two sisters, Kaliopi Farmaqi and Kristina Poni, because

they had not filed a claim in the Albanian Claims Program nor had they requested that they be considered co-claimants with their sister, DHEMITRULA A. MENKA. Furthermore, it was understood by the Commission that neither of the two sisters was living in the United States on April 18, 1995, nor were their interests in the claim owned by someone living in the United States for at least half the time between April 18, 1995, and the date the claim arose, as required 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 letter dated July 12, 2006, the Commission notified Mrs. Menka 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. As a result of this modification of the Settlement Agreement, the Commission reviewed the claim file again and advised Mrs. Menka that she could contact her two sisters and have them included in the

claim if they would contact the Commission directly and request to be included.

On October 29, 2006, Kozeta Simo contacted the Commission by letter and submitted evidence that her mother, Kaliopi Farmaqi, a United States national since birth, had died in Illinois on May 2, 1998, and requested that she and her father, Kosta Farmaqi, Mrs. Farmaqi's only heirs, be included as co-claimants. Similarly, on November 9, 2006, Mrs. Kristina Poni contacted the Commission and requested to be included as a co-claimant.¹

As a preliminary matter, the Commission notes that evidence has been submitted to establish that Kaliopi Farmaqi died in Illinois in 1998 and that she died without a will. Accordingly, the Commission finds that the descent and distribution laws of the State of Illinois apply to the ownership of this portion of the claim. Under those laws, Kaliopi Farmaqi's husband, Kosta Farmaqi, and her daughter, Kozeta Simo, each succeeded to one half of the late Kaliopi Farmaqi's estate.²

¹Kristina Poni has another claim before the Commission (Claim No. ALB-291) for property assertedly inherited by her from her father-in-law. She has established that she is a United States national by birth to a United States-citizen parent.

²Ill. Rev. Stat. Ch. 755, § 5/2-1 (1998).

Accordingly, the Commission accepts the requests of KOSTA FARMAQI, KOZETA SIMO, and KRISTINA PONI to be included as co-claimants in this claim.

Based on the modification of the Settlement Agreement described above, the Commission concludes that claimants KOSTA FARMAQI, and KOZETA SIMO is each entitled to an award of \$200.00 for their share in the late Kaliopi Farmaqi's share in her father's claim for the loss of his agricultural property . Similarly, KRISTINA PONI is entitled to an award in the principal amount of \$400.00 for her share in her father's claim for the loss of his agricultural property. These awards shall date from January 1, 1956.

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 the 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 235.8 percent of the principal award.

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

A W A R D S

Claimant KOSTA FARMAQI is entitled to an award in the principal amount of Two Hundred Dollars (\$200.00), plus interest from January 1, 1956, to April 18, 1995, in the amount of Four Hundred Seventy-One Dollars and Sixty Cents (\$471.60), for a total of Six Hundred Seventy-One Dollars and Sixty Cents (\$671.60).

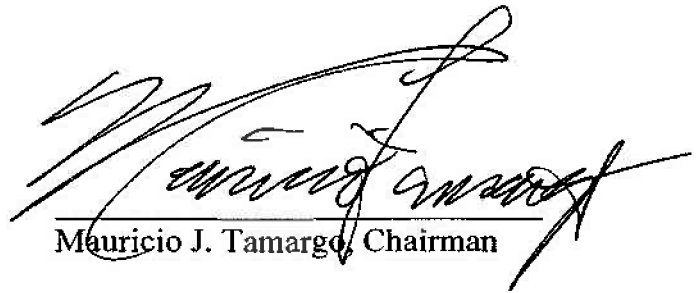
Claimant KOZETA SIMO is entitled to an award in the principal amount of Two Hundred Dollars (\$200.00), plus interest from January 1, 1956, to April 18, 1995, in the amount of Four Hundred Seventy-One Dollars and Sixty Cents (\$471.60), for a total of Six Hundred Seventy-One Dollars and Sixty Cents (\$671.60).

Claimant KRISTINA PONI is entitled to an award in the principal amount of Four Hundred Dollars (\$400.00), plus interest from January 1, 1956, to April 18,

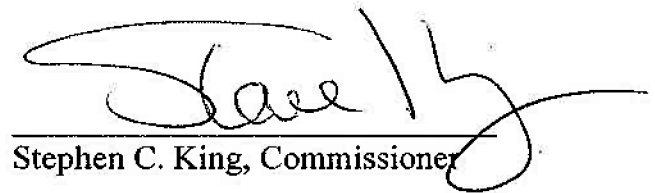
1995, in the amount of Nine Hundred Forty-Three Dollars and Twenty Cents (\$943.20), for a total award of One Thousand Three Hundred Forty-Three Dollars and Twenty Cents (\$1,343.20).

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

JAN 25 2007



Mauricio J. Tamargo, Chairman



Stephen C. King, Commissioner

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

In the Matter of the Claim of

DHEMITRULA A. MENKA

Against the Government of Albania

Claim No. ALB-316

Decision No. ALB-306

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property located in Qyteze, 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) (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 in this case has asserted that the property which is the subject of her claim was confiscated by the Albanian government either in 1945 or in 1947. She further asserts that her father, Anastas P. Michael (also known as Anastas P. Mihailidis), a United States national since 1927, was the owner of the property at that time. According to the claimant, her father died in 1969 and she and her sisters are his sole heirs.*

*On the claim form, claimant indicates that her two sisters, Kristina Poni and Kaliopi Farmaqi have an interest in the claim. However, neither of them has notified the Commission of their interest in the claim of their father, presumably because neither sister was domiciled in the United States prior to April 1995.

In support of her claim, claimant has submitted evidence of her father's United States nationality, her own United States nationality, a copy of her father's death certificate, as well as a copy of a Certificate of Family Composition.

Research conducted by the Commission's independent consultant in the archives of the Kadaster of Devoll has identified approximately 3 hectares of agricultural land in the name of claimant's mother, Ollga Thanas Tase. However, other evidence as well as information obtained from Commission files in its War Claims Program suggest that the property being claimed for was, in fact, owned by claimant's father, Anastas P. Michael. *See Claim of ANASTAS, P. MICHAEL, Claim No. W-12619, Decision No. W-13264 (1966).* Evidence in the record also establishes that claimant's father acquired United States nationality by naturalization on January 20, 1927, and that the claimant was born in the United States on

Personality Identifiable Information
Redacted under 5 U.S.C. §552(b)(6)

Based on the evidence in the record, the Commission finds that prior to 1945, the claimant's father was the owner of 29,460 square meters (2.95 hectares) or about 7.3 acres of agricultural property in the vicinity of the village of Qyteze, District of Devoll.

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, the claimant has stated alternately that her father's property was confiscated in 1945 or in 1947. However, the Commission is aware that land in the area of Qyteze was collectivized between 1956 and 1957. Accordingly, the Commission finds that the claimant's father's agricultural land was the subject of an uncompensated expropriation by the Government of Albania on or about January 1, 1956. Claimant is therefore entitled to an award of compensation for the resulting loss.

The claimant has not asserted a value for the expropriated property. 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 property owned by claimant's father in the village of Qyteze, District of Devoll, had a value at the time of expropriation of approximately \$300 per acre, or \$2,400.00.

The claimant has established that her father died in Illinois in 1969, and has stated that he died without a will and was survived by a wife and three children. The Commission therefore finds that this claim, owned by the late Anastas P. Michael, devolved upon his death intestate on August 30, 1969, in accordance with the descent and distribution laws of the State of Illinois, to his wife, then an Albanian national, to the extent of one-half, with the remaining one-half devolving to the claimant and her sisters. Accordingly, claimant is entitled to an award in the principal amount of \$400.00 based on her inherited one-sixth interest in her father's claim for his agricultural property, dating from January 1, 1956.

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, each claimant is also entitled to an interest award of 235.8 percent of her principal award, or \$943.20.

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

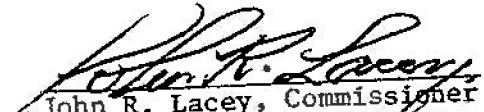
A W A R D

Claimant, DHEMITRULA A. MENKA, is entitled to an award in the principal amount of Four Hundred Dollars (\$400.00) , plus interest from January 1, 1956, to April 18, 1995, in the amount of Nine Hundred Forty-Three Dollars

and Twenty Cents (\$943.20), for a total award of One Thousand Three Hundred Forty-Three Dollars and Twenty Cents (\$1,343.20).

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

OCT 29 1998


John R. Lacey, Commissioner


Richard T. White, Commissioner

This decision was entered as the Commission's
Final Decision on DEC 4 1998

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) (1997).

ALB-316