

family nor has compensation been paid. The Commission has deemed that January 13, 1997 letter an objection to the Commission's Proposed Decision.

In a February 18, 1997 telephone conversation with a member of the Commission's legal staff, the wife of EDWARD MEHMET indicated that, upon the death of his father (Nuri Mehmet), his father's entire estate passed to his wife (and the mother of EDWARD MEHMET), SALKE N. MEHMET.¹ In light of this fact, the Commission attorney advised that SALKE N. MEHMET would appear to be the proper claimant and requested evidence that SALKE N. MEHMET acquired U.S. nationality at some time before her husband's death.

By letter dated March 14, 1997, SALKE N. MEHMET formally requested that she be included as a claimant in this claim. The Commission grants that request. Because claimants have not requested an oral hearing, the Commission issues this Final Decision based on its de novo review of the evidence in the record.

Claimants have now submitted copies of the 1950 will of Nuri Mehmet, the certificate of his death in New York in 1973, and the Certificate of Naturalization of SALKE N. MEHMET (reflecting her U.S. citizenship as of

¹This conversation corroborated a September 26, 1996 telephone conversation between EDWARD MEHMET and a Commission attorney, as discussed in the Proposed Decision.

1972). But claimants still have submitted no evidence of ownership of any of the property for which they claim.

The Commission has before it the record from a related case, however. As discussed in the Proposed Decision in this case, Nuri Mehmet (the husband of SALKE N. MEHMET and the father of EDWARD MEHMET) received an award in the Commission's General War Claims Program. Claim of NURI MEHMET, Claim No. W-13452, Decision No. W-16668 (1966). The record in the War Claims proceeding supplements the evidence submitted by claimants in this case.²

The Commission has carefully considered the additional evidence submitted by claimants in recent months, and has again reviewed the entire record in this claim. Based on that record, the Commission finds that Nuri Mehmet (a U.S. national) owned -- at a minimum -- a two-story, four-room house and a plot of land of at least five acres. The Commission also finds that

²As the Proposed Decision observed, the War Claims file includes notes of an interview conducted by the Commission in 1965 or 1966 (with a witness the interviewer found "trustworthy"), indicating that the house which was the subject of the War Claims award for damage during World War II was "repaired almost the same as before the war," using funds sent from the United States.

The War Claims file also includes a 1964 Affidavit by Abedin Agolli and Iqmet Sheshi, attesting to Nuri Mehmet's ownership of five acres of vineyards in August 1944.

both the house and the land were expropriated in 1946. In the absence of a more specific date, the Commission will deem the taking to have occurred as of January 1, 1946.

The Commission further finds that, upon the death of Nuri Mehmet in 1973, his entire estate (including the claim for the property at issue here) passed to his wife, SALKE N. MEHMET. In light of this fact, EDWARD MEHMET has requested leave to withdraw his claim. The Commission grants that request, and finds claimant SALKE N. MEHMET entitled to compensation for the house and the land confiscated from her late husband, dating from January 1, 1946.

Although the claim form asserted that Nuri Mehmet owned land worth a total of \$49,000.00, no value has been placed on the specific five acres of land which are the subject of this award. Similarly, although EDWARD MEHMET has asserted that the house had a value of \$10,000.00 at the time of expropriation, no evidence has been submitted to substantiate that figure. Moreover, as the Proposed Decision in this case noted, the Commission found in its General War Claims Program that the house had a value of approximately \$2,000.00 in 1944. Based on that finding and on its study of the values of various kinds of real property in Albania before and during World War II and thereafter, the Commission finds that the house had a value at the time of

expropriation of \$3,000.00, and that the five acres of land had a value of \$1,500.00. Accordingly, claimant SALKE N. MEHMET is entitled to an award in the principal amount of \$4,500.00.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission further concludes that claimant SALKE N. MEHMET is entitled to interest as part of her award, amounting to 6 percent simple interest per annum from the date of loss to April 18, 1995 (the effective date of the Settlement Agreement). Accordingly, claimant is entitled to an interest award of 295.8 percent of her principal award, or \$13,311.00.

The Commission therefore withdraws its denial in this claim and enters the award set forth below, which will be certified to the Department of Treasury for payment in accordance with sections 5, 7 and 8 of Title I of the International Claims Settlement Act (22 U.S.C. §§ 1624, 1626 and 1627).

Under the terms of the Settlement Agreement, the United States has agreed to advise the Albanian authorities of the issuance of the Commission's awards, so as to prevent double recovery in a claim. A copy of this decision therefore will be forwarded to the Albanian Government in due course.

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

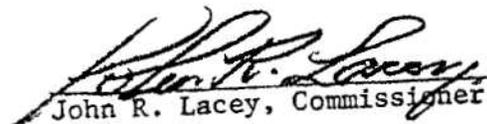
A W A R D

Claimant SALKE N. MEHMET is entitled to an award in the principal amount of Four Thousand Five Hundred Dollars (\$4,500.00), plus interest from January 1, 1946 to April 18, 1995, in the amount of Thirteen Thousand Three Hundred Eleven Dollars (\$13,311.00), for a total award of Seventeen Thousand Eight Hundred Eleven Dollars (\$17,811.00).

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

In the Matter of the Claim of

EDWARD MEHMET

Against the Government of Albania

}
}
}
}
}
} Claim No. ALB-238

}
} Decision No. ALB-194

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real and personal property located in Grace, Hocisht, in the 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 claimant in this case has stated that the properties which are the subject of his claim -- land, a house, barns, and personal property (including some gold) -- were confiscated by the Albanian government in 1946. At the time of confiscation, according to the claimant, the properties were owned by his father, Nuri Mehmet (Morava), who became a United States national in 1938.

In its General War Claims Program, conducted under Title II of the War Claims Act of 1948, as amended (50 U.S.C. App. 2017), the Commission issued an award to Nuri Mehmet, claimant's father, in the amount of \$2,950 for the loss or destruction in 1944 of a four-room house, a stone barn and stable, and

vineyards all located in Grace, Hocisht, District of Bilisht. *Claim of NURI MEHMET*, Claim No. W-13452, Decision No. W-16668 (1966).

By letter dated March 14, 1996, the Commission requested claimant to provide evidence of his United States nationality, some evidence to establish his father's ownership of the properties in question, some evidence of the date and circumstances of the alleged confiscation, and a copy of his father's will or a certificate of inheritance identifying his father's heirs. On July 8, 1996, the Commission reiterated its request and informed claimant that if the requested information was not received within 30 days, the claim would be submitted for decision on the basis of the existing record.

The claimant subsequently submitted an affidavit from his cousin, Remzi Barolli, who attests generally that he witnessed the confiscation of Nuri Mehmet's properties in 1946. In addition, the claimant stated that he had forwarded evidence of his own nationality and a copy of his father's will, although the Commission never received those documents. The Commission asked that claimant forward copies of those documents again, and also asked claimant to distinguish the properties which are the subject of his present claim from those for which his father received compensation under the General War Claims Program. No further response or evidence has been received.

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 claimant in this case has not met the burden of proof to establish his right to compensation under the Settlement Agreement.

The threshold issues which bear on all parts of claimant's claim are claimant's United States nationality, his inheritance of the right to claim for the property at issue, and the date and circumstances of the confiscation.

On his claim form, claimant indicated that he is a U.S. citizen by birth abroad to a U.S. citizen. In his undated reply to the Commission's letter of March 14, 1996, the claimant states that he was born in Albania and was forwarding a copy of his "naturalization document." In any event, no evidence of claimant's U.S. nationality has ever been received and, in the absence of such evidence, the Commission cannot assert jurisdiction under the Settlement Agreement to consider claimant's claim.

Claimant also has failed to establish his right to claim for the property at issue. According to the claim form, the property was owned by claimant's father at the time of confiscation, and claimant inherited his rights upon his father's death on May 7, 1971. However, to date, the Commission has not received from claimant a copy of his father's will. Moreover, in a September 26, 1996 phone conversation with a member of the Commission's legal staff, claimant indicated that he believes that his father's will bequeathed everything to claimant's mother (who is apparently still living and is assertedly a U.S. citizen). In that conversation, claimant also indicated that he has two brothers (whose nationality was not specified) who assertedly do not wish to claim for the property at issue here. In the absence of a copy of his father's will, the Commission cannot determine whether claimant is entitled to claim for any or all of the property which is the subject of this case.

Claimant also must submit credible evidence to prove the date and circumstances of the alleged confiscation of the house by the Albanian Communist regime. The only evidence of confiscation claimant has submitted to date is an affidavit from a cousin which attests simply that "the said property was confiscated by the Albanian communist government during 1946." The affidavit provides no details as to generally when, why or how the confiscation

occurred, and is not sufficient evidence of confiscation to support an award by the Commission.

Turning first to claimant's claim for land, it seems reasonable to conclude from the Commission's decision in the War Claims Program -- awarding claimant's father compensation for the destruction of a house during World War II -- that claimant's father must have owned some land on which that house stood. However, claimant here has failed to provide any evidence of the size or nature of that plot (other than his assertion on the claim form that it was valued at \$49,000). In the absence of such evidence, the Commission cannot determine neither the size nor the value of the land, and therefore cannot make an award to claimant on this element of his claim.

Claimant also claims for a house, which he has valued at \$10,000 but has not described in any way. But evidence in the War Claims file also bears on this part of claimant's claim. Notes of an interview conducted by the Commission in 1965 or 1966 (with a witness the interviewer found "trustworthy") indicate that the house which was the subject of the War Claims award for damage during World War II was "repaired almost the same as before the war," using money that this claimant's father sent to Albania for that purpose.

On the strength of this evidence from the War Claims file, the Commission could make an award to claimant here for his share of a two-story, four-room house without utilities (which had a 1944 value of approximately \$2,000) -- if claimant had submitted the requisite proof of his U.S. nationality, inheritance and confiscation. However, as discussed above, the Commission cannot make an award in the absence of such evidence.

The War Claims file is not as helpful on this claimant's claim for "barns," which he has valued at \$2,000 but (again) has not described. While the Commission's decision in the war claim filed by claimant's father did award \$700 for a stone stable and a stone barn, there is no evidence in the War Claims file or in the materials submitted by claimant here to indicate whether or not the stable and the barn were re-built following their destruction in 1944. In the absence of such evidence -- and the evidence of U.S. nationality, inheritance and confiscation discussed above -- the Commission cannot find in favor of claimant on his claim for family barns.

Finally, claimant seeks compensation for the alleged loss of personal property, including gold. However, claimant has failed to even describe the property for which he claims, much less document its existence. And, in any event, this part of claimant's claim -- like the others -- fails for lack of evidence

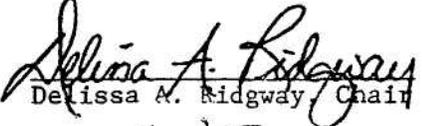
on the threshold issues of U.S. nationality, inheritance and confiscation. Based on the evidence now before it, the Commission cannot find in favor of claimant on his claim for personal property.

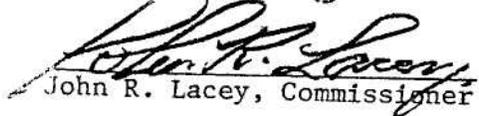
The Commission sympathizes with claimant for the loss of his family's property. However, in the absence of the requisite evidence, the Commission cannot find that a claim is compensable under the Settlement Agreement. For all the reasons detailed above, all parts of claimant's claim must be and are hereby denied.

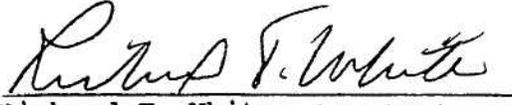
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

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).