



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 property which is the subject of his claim, consisting of various parcels of land totaling 1.5 hectares (equivalent to 15,000 square meters or 3.7 acres), was confiscated by the Albanian government in 1962. He further states that at the time of confiscation, the properties were owned by his father, Kosta Jovan Melka. The

claimant has established that his father became a United States national by naturalization on January 31, 1938.

By letter dated March 19, 1996, the Commission requested that the claimant submit evidence of his own United States nationality, evidence of his father's ownership of the property in question, a certificate of inheritance identifying the heirs to the property, and some evidence of the date and circumstances of the alleged confiscation. The claimant subsequently submitted a copy of his United States passport issued by the American Embassy in Albania on June 1, 1992, showing that he is a United States national by birth. The claimant also included the following documents emanating from Albania: a copy of the purported last will and testament of his father, Kosta Jovan Melka, bequeathing to various members of his family land measuring 15,000 square meters, a house, two orchards, and several bank accounts held in the United States; a copy of a "DEKLARATE" which documents that his father was the record owner of a house and two orchards in 1960; a "property certificate" from the Cadastral Office of Korce verifying that Kosta Melka and six other family members were the record owners of various parcels of agricultural land totaling 8600 square meters (equivalent to .86 hectares or 2.12 acres); and two attestations from officials in the District of Drenove indicating

that land totaling 8600 square meters has never been returned to the claimant or his family.

By letters dated May 13 and July 12, 1996, the Commission asked claimant to clearly identify the properties which are the subject of his claim since there are discrepancies between the property identified in the claim form and that which is identified in the documents submitted. The Commission also requested that the claimant identify the other potential heirs to the claim and that this information, along with the information requested above, be submitted to the Commission no later than August 15, 1996. No response to these requests 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 has not met the burden of proof in that he has failed to clearly identify the property which is the subject of his claim, the extent of his inherited interest in the claim for that property, and the date and circumstances of confiscation. In the absence of such evidence, the Commission must conclude that claimant's claim is not compensable under the

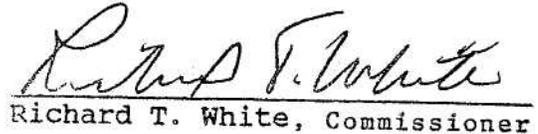
terms of the Settlement Agreement. The claim therefore must be and is hereby denied.

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.

  
Delissa A. Ridgway, Chair

OCT 07 1996

  
Richard T. White, Commissioner

This decision was entered as the Commission's Final Decision on DEC 03 1996

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).