

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 a two-part claim. The first part of the claim is for real and personal property, consisting of a house, 1-1/2 acres of land, and household furniture and furnishings, owned by her husband, Dervish Shamet, and located in the Palorto Quarter of Gjirokaster. On her Statement of Claim, she asserts that this property was seized by the Albanian government in 1943. The second part of her claim is based on the alleged confiscation of land in the vicinity of the village of Sua (Suhe), District of Gjirokaster, inherited from her father, Veli Bimi, on an unspecified date. As supporting documentation, she has submitted copies of her and her husband's naturalization certificates, showing that they became United States nationals on January 29, 1951, and July 9, 1942,

respectively; a copy of her husband's death certificate, showing that he died in New York on April 25, 1978; and a copy of her husband's will, in which he named her as the sole beneficiary of his estate.

The property which is the subject of the first portion of the claimant's claim was also the subject of a claim filed by the claimant's husband in the Commission's General War Claims Program, conducted between 1963 and 1967. *Claim of DERVISH SHAMET*, Claim No. W-5558, Decision No. W-16537 (1966). In that claim the Commission granted claimant's husband an award totalling \$5,700 for the loss and destruction by German forces in June 1944 of a two-story, seven-room house (\$2,600), two shops in the same structure (\$1,600), farm animals (\$800), and household furnishings (\$700), all located in the Palorto Quarter of Gjirokaster.

In view of this previous award, the Commission must conclude that there is no basis for a finding that the house and household furniture and furnishings now being claimed for by the claimant as the beneficiary of her husband's estate still existed after World War II. As such, they could not have been the subject of a nationalization or other taking by the Albanian government, within the meaning of the Settlement Agreement. Accordingly, the Commission concludes that claimant's claim for this property must be and is hereby denied.

The Commission is persuaded, however, that after World War II, the claimant's husband, Dervish Shamet, continued to own the land on which his destroyed house had stood. In view of Dervish Shamet's evident occupation as an absentee owner of sheep and cattle, the Commission is further persuaded that this land would have been confiscated by the Albanian government under its Agrarian Reform Law of August 29, 1945. For lack of a precise date, the Commission will deem the confiscation to have occurred as of August 29, 1945. Based on her status as the sole beneficiary of her husband's estate, claimant is accordingly entitled to an award for the confiscation of her husband's land, dating from August 29, 1945.

As previously noted, the Commission determined that claimant's husband's house and shops had a value of \$4,200 when they were destroyed in 1944. Based on that figure, the Commission finds that the land underlying the destroyed structure would reasonably have had a value of \$1,200 at the time of confiscation. Accordingly, claimant is entitled herein to an award in the principal amount of \$1,200.00, dating from August 29, 1945.

The second part of the claimant's claim is based on the alleged confiscation of property owned by her father, Veli Bimi. However, claimant has submitted no evidence to establish her father's ownership of that property, its size

or other characteristics, the date or circumstances of its alleged confiscation, or her right to claim for it as her father's heir. By letter dated October 3, 1996, she was advised that unless such evidence was submitted, there did not appear to be a basis for favorable consideration of this portion of her claim, but to date, claimant has not responded.

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 she has failed to submit supporting evidence to establish the ownership, size, or other characteristics of the agricultural property which is the subject of this part of her claim, the date or circumstances of its alleged confiscation, or her right to claim for it as her father's heir. In the absence of such evidence, the Commission must conclude that this portion of claimant's claim is not compensable under the terms of the Settlement Agreement. This portion of her claim must therefore 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 the award made to her herein, amounting to 6 percent simple interest per annum from the date of loss to the effective date of the Settlement Agreement. Accordingly, claimant is entitled to an interest award of 297.8 percent of her principal award, or \$3,573.60.

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.

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

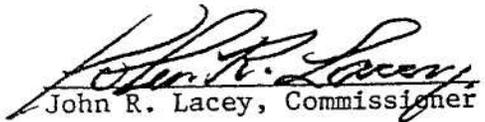
AWARD

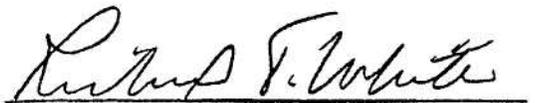
Claimant, LUTFIJE SHAMET, is entitled to an award in the principal amount of One Thousand Two Hundred Dollars (\$1,200.00), plus interest from August 29, 1945, to April 18, 1995, in the amount of Three Thousand Five Hundred Seventy-Three Dollars and Sixty Cents \$(3,573.60), for a total award of Four Thousand Seven Hundred Seventy-Three Dollars and Sixty Cents (\$4,773.60).

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


Delissa A. Ridgway, Chair

JAN 28 1997


John R. Lacey, Commissioner


Richard T. White, Commissioner

This decision was entered as the Commission's
Final Decision on MAR 25 1997

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.