

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

In the Matter of the Claim of

PJETER P. TUSHAJ

Against the Government of Albania

Claim No. ALB-040

Decision No. ALB-188

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property located in Fushe-Arrez, District of Puke.

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, a United States national since 1964, has asserted that he and his brother, Zef Tushaj, an Albanian national, owned the property which is the subject of the claim, and that the property was confiscated by the Albanian government in 1975. By letter dated October 27, 1995, the Commission requested the claimant to submit some evidence of ownership and confiscation. By letter dated December 4, 1995, the claimant submitted a handwritten document in Albanian purporting to establish ownership of the property. According to the claimant's letter, the document is in another brother's name -- Kol Prend Lleshi, also known as Kol Prend

Tushaj. It is the claimant's contention that in "Albania the property was always registered in the name of the oldest boy in the family, if father was deceased."

In response to Commission letters dated January 18, 1996 and June 6, 1996, requesting evidence of claimant's ownership or inheritance of the claim in question, the claimant submitted evidence of the United States nationality of Kole Tushaj and a copy of Kole Tushaj's death certificate. However, no substantive evidence of claimant's ownership of the property in question or of his inheritance from his brother has been submitted. Additionally, in his letter of July 7, 1996, the claimant has now stated that "[T]he property was returned to my brother Zef Tushaj in 1991" and that the claim here is limited to erosion damage.

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).

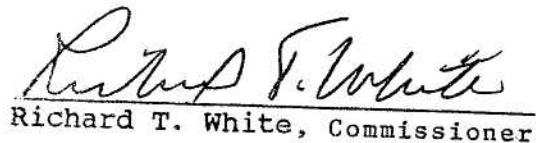
The Commission finds that the claimant has not met the burden of proof to establish that he owned an interest in the property at issue in this claim at the time of its asserted loss, or to establish the date and circumstances of the asserted loss. Accordingly, the claim must be and is hereby denied.

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.

OCT 07 1996


Delissa A. Ridgway, Chair


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).