

**FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON 25, D. C.**

IN THE MATTER OF THE CLAIM OF

ISABEL ANETTE HUPPERT
Weimarerstrasse 44
Vienna 18, Austria

Claim No. BUL-1084

Decision No. BUL-184

Against the Government of Bulgaria

Under the International Claims Settlement
Act of 1949, as amended

GPO 16-72126-1

Counsel for Claimant:
Francis A. Mahoney
9 East 40th Street
New York 16, New York

FINAL DECISION

The Commission issued its Proposed Decision on this claim on July 31, 1957, a certified copy of which was duly served upon the claimant. Full consideration having been given to the objections and arguments presented at a hearing held on December 4, 1957, and general notice of the Proposed Decision having been given by posting for thirty days, it is

ORDERED that such Proposed Decision be and the same is hereby entered as the Final Decision on this claim.

Dated at Washington, D. C.

JAN 16 1958

Whitney Gilliland men
WB
DSB.
HBM

Pearl B. C.
Henry S. Clay

COMMISSIONERS

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FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

ISABEL ANETTE HUPPERT
Weimarerstresse 44
Vienna 18, Austria

Claim No. BUL-1,084

Decision No. BUL-184

Under the International Claims Settlement
Act of 1949, as amended

GPO 16-72126-1

Counsel for Claimant:

Leon, Weill and Mahoney
9 East 40th Street
New York 16, New York

PROPOSED DECISION

This is a claim against the Government of Bulgaria under Section 303 of the International Claims Settlement Act of 1949, as amended, for war damage to property in Bulgaria during World War II and for loss as the result of confiscation by the Government of Bulgaria of property allegedly belonging to claimant. Claimant became a national of the United States by naturalization on August 8, 1946 but was expatriated as of April 2, 1956, under the provisions of Section 352(a)(1), Chapter 3, of Title II of the Immigration and Nationality Act of 1952, (66 Stat. 163).

Section 303(2) of the Act provides for the receipt and determination by the Commission in accordance with applicable substantive law, including international law, of the validity and amounts of claims of nationals of the United States against the Government of Bulgaria, among others, arising out of the failure of such government to pay effective compensation for the nationalization, compulsory liquidation, or other taking, prior to August 9, 1955, of the property in Bulgaria of nationals of the United States.

Under well established principles of international law, unless otherwise provided by treaty, in order for a claim espoused by the

United States to be compensable, the property upon which it is based must have been owned by a national or nationals of the United States at the time of loss, and the claim which arose from such loss must have been owned by a United States national or nationals continuously thereafter.

Accordingly, the Commission finds that the claim is not compensable under Section 303(2) of the Act, for the reason that it was not owned by a United States national continuously after the time that it allegedly arose, inasmuch as claimant lost her United States nationality on April 2, 1956.

Similarly, when considered under the provisions of Section 303(1) of the Act, which relate to claims for damage during World War II, this claim is found to be not compensable. Section 303(1) authorizes, inter alia, receipt and determination of claims of United States nationals for failure of the Government of Bulgaria to restore or pay compensation for property of nationals of the United States as required by article 23 of the treaty of peace with Bulgaria. Article 23 provides for the restoration of rights and return of property of the United Nations and their nationals and for the payment of compensation to United Nations nationals whose property suffered war damage or can not be returned, and United Nations nationality is made to depend either upon nationality in any one of the United Nations on October 28, 1944, the date of the armistice with Bulgaria, or upon having been treated as an enemy under the laws in force in Bulgaria during the war.

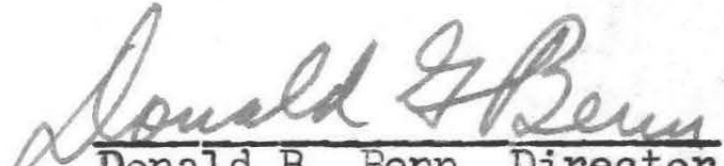
However, claims under Section 303(1) of the International Claims Settlement Act are restricted by the language of the Act itself to those owned by United States nationals. As to such claims, the customary rule of international law as to the national character of a claim is modified by application of provisions of the treaty and the Act, so that a claim arising under the treaty may be found compensable under Section 303(1) if the property on which it is founded, or the claim arising from loss of the property, was owned by a national or nationals of the United States on October 28, 1944, the date of the armistice

with Bulgaria, and continuously thereafter. In the instant case, however, it is found that neither the property nor the claim was owned by a United States national on October 28, 1944, and the claim may not, therefore, be considered compensable under Section 303(1).

Accordingly, the Commission finds that the claim was not owned by a United States national on October 28, 1944, nor continuously after the time that it allegedly arose, and it is, therefore, denied. The Commission finds it unnecessary to make determinations with respect to other elements of the claim.

JUL 31 1957

FOR THE COMMISSION:


Donald B. Benn, Director
Balkan Claims Division

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