

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

IN THE MATTER OF THE CLAIM OF

ANNA TODOROFF  
94 Pearsall Avenue  
Lynbrook, Long Island  
New York

Claim No. BUL-1,124

Decision No. BUL-75

Under the International Claims Settlement  
Act of 1949, as amended

GPO 16-72126-1

FINAL DECISION

This is a claim against the Government of Bulgaria under Section 303 of the International Claims Settlement Act of 1949, as amended, for alleged confiscation of real and personal property. As originally stated, a house in Varna was nationalized in 1947 under an edict forbidding ownership of more than one dwelling, the claimant having chosen to retain a house in Sofia. The Sofia house was allegedly nationalized in 1951 as the property of a national who had departed from Bulgaria; but it is further stated that the property was taken in 1953, after the expiration of a two-year extended period within which nationals were permitted to return and avoid nationalization. Claimant became a national of the United States by naturalization on May 11, 1954.

In a Proposed Decision issued on February 26, 1957, the claim was denied on the ground that it was not owned by a national of the United States at the time that it arose. At a hearing held on June 5, 1957, claimant was represented by her son, Ely Todorow, who urged a reversal of the Proposed Decision, advancing two contentions as possible bases therefor.

It was suggested that an award might follow from the fact that claimant's sons and "heirs" are United States citizens (and, presumably,

were such at the time of loss). Since claimant is not deceased, the only interest of her sons is that of prospective inheritors. The taking of property by the Bulgarian Government was not, under the circumstances, a taking of their property, since all they had (or have) is the hope of prospective ownership. Even assuming that the sons eventually become claimant's sole heirs, the objects of their inheritance could not be known in advance, since claimant's property is subject to loss or change during her lifetime. In the instant case, claimant allegedly suffered a property loss under circumstances which do not give rise to a claim under the Act. Claimant does not have a claim compensable before this Commission; and her prospective heirs may not inherit from her that which she does not herself possess.

Claimant's representative further alleged that the Sofia property has not yet been legally confiscated, and is still claimant's property, there having been no notification to the contrary.

Awards may be granted under Section 303(2) of the Act for the failure of the Government of Bulgaria to "pay effective compensation for the nationalization, compulsory liquidation, or other taking, prior to the effective date of this title [August 9, 1955], of property of nationals of the United States in Bulgaria...." Among the requirements for eligibility, however, is that imposed by a well established principle of international law, that the property upon which the claim 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.

In this case, therefore, compensability depends upon proof of a "nationalization, compulsory liquidation, or other taking" between May 11, 1954 (when claimant became a United States national), and August 9, 1955. If there has been no loss, there is no compensable claim. Claimant urges, however, that there has been a continuous taking, or restriction on the use of the property, in that the

Bulgarian Government has deprived her of control thereof, and has collected and retained the rents therefrom, since 1949 or 1950. Hence, it is argued, loss has occurred each day, and eligibility should commence on May 11, 1954.

One of the avowed purposes of the requirement of continuous ownership by nationals of the espousing state, is that of preventing the creation of an international claim by transfer of the claimant's allegiance. In Moore's International Law Digest, Vol. VI, pp. 636-637, Secretary of State Fish is quoted as follows:

By adopting a foreigner, under any form of naturalization, as a citizen, this government does not undertake the patronage of a claim which he may have upon the country of his original allegiance or upon any other government. To admit that he can charge it with this burden would allow him to call upon a dozen governments in succession, to each of which he might transfer his allegiance, to urge his claim. Under such a rule the government supposed to be indebted could never know when the discussion of a claim would cease. All governments are, therefore, interested in resisting such pretensions.

To the same effect, Secretary Fish stated even more forcefully:

When your alleged injuries took place you were not a citizen of the United States, and therefore, under well-established canons of international law, it is not within the province of this Government to inquire whether your property was wrongfully or rightfully taken... It would be a monstrous doctrine, which this Government would not tolerate for a moment, that a citizen of the United States who might deem himself injured by the authorities of the United States or of any State, could, by transferring his allegiance to another power, confer upon these powers the right to inquire into the legality of the proceedings by which he may have been injured while a citizen.

Clearly, then, to find claimant eligible to compensation for deprivation of property since May 11, 1954, under presently alleged circumstances, would be to defeat the purpose of the rule. The rule is frequently stated variously as requiring that the claim be American in origin or in inception. Even under a theory of deprivation of use, the claim would have arisen, and had its origin or inception, when that deprivation first occurred. The Commission declines to sanction an evasion of the requirement of international law of

ownership of the claim by a United States national at that time,  
by regarding a taking of property as a continuous taking.

Accordingly, the Proposed Decision is affirmed, and the claim is  
denied.

Dated at Washington, D.C.

SEP 4 1957

*Whitney Gilliland*

*Henry S. Clay*

COMMISSIONERS

*fe*  
*W D*

*W*  
*W*

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

---

In the Matter of the claim of	:	
	:	
ANNA TODOROFF	:	Claim No. BUL-1,124
94 Pearsall Avenue	:	
Lynbrook, Long Island	:	Decision No. BUL- 75
New York	:	
	:	
Against the Government of Bulgaria	:	
Under the International Claims	:	
Settlement Act of 1949, as Amended.	:	

---

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 loss of property allegedly occurring in 1947, 1951, and 1953.

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 other nations, 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 of nationals of the United States in Bulgaria.

Under well established principles of international law, 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.

Claimant alleges that she became a national of the United States by naturalization on May 11, 1954. Claimant further alleges the property, owned by her and forming the basis of the claim, was nationalized

liquidated, or otherwise taken from her by the Government of Bulgaria in 1947, 1951, and 1953, all of which was prior to the date on which the claimant states that she became a national of the United States.

Accordingly, the Commission finds that the claim was not owned by a United States national at the time that it arose and it is, therefore, denied. The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

Dated at Washington, D. C.

FEB 26 1957

FOR THE COMMISSION:

*Donald G. Benn* <sup>fc</sup>

Donald G. Benn, Director  
Balkan Claims Division

*mgs*