INTERNATIONAL CLAIMS COMMISSION OF THE UNITED STATES
DEPARTMENT OF STATE
Washington, D. C.

In the Matter of the Claim of MILE RASETA, Box 34, Curtisville, Pennsylvania. Under the Yugoslav Claims Agreement of 1948 and the International Claims Settlement Act of 1949	Docket No. Y-1112 Decision No. 853

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PROPOSED DECISION OF THE COMMISSION

This is a claim for $96,000, plus interest, by Mile Raseta, a naturalized citizen of the United States since September 5, 1916, and is for the taking by the Government of Yugoslavia of 295.55 dunums of farmland, five houses, farm equipment and livestock in or near the Village of Vidovska, Community of Velika Kladusa, Peci-Vidovska, Yugoslavia.

As evidence of ownership, claimant filed four certified copies of extracts dated March 1950 from the Land Register of Peci, according to which the claimant was the owner of record of a 3/25ths interest in seven parcels of property recorded under Docket No. 1988; of a 1/4th interest in fifteen parcels of property recorded under Dockets 9, 16, 44 and 1870; a 1/16th interest in six parcels of property recorded under Docket No. 2157, and Pane Raseta was the sole owner of the six parcels recorded under Dockets 17 and 32. The claim is based upon sole ownership of all of the property recorded in these four extracts, subject to undetermined interests in certain parcels of land in claimant's brother, Nikola Raseta. The Yugoslav Government has furnished extracts

for all of these Dockets except 17 and 32 and their contents agree with those furnished by the claimant.

It is asserted by the claimant that commencing in the year 1910 when he emigrated to America, he started sending money to his father and brothers in Yugoslavia for the purchase of all the above-described property. The owners of record of the property recorded on these Dockets other than the claimant, his father (Pane) and his brother (Nikola), were various relatives of the claimant. The claimant has filed death certificates showing that five of these recorded owners died prior to December 1944. Claimant has also filed what purports to be a joint last will and testament executed on September 17, 1932 by those five individuals for whom the claimant has filed death certificates in which the claimant is named as the sole heir and legatee of all property, real and personal, then owned by the testators. There is no evidence that this will was probated or ever offered for probate, nor has any reason been given for the failure to probate the will.

As corroborating evidence of ownership and taking of the property, claimant filed an affidavit executed on April 8, 1952 by Laza Dipalo of Chicago, Illinois, to the effect that from 1906 to 1946 he resided in the Community where the property was located and he is well acquainted with the property of Mile Raseta in and about the Village of Vidovska; that he knows of his own knowledge that the Mile Raseta property consisted of 295.55 dunums of farmland, including two furnished houses, livestock and necessary farm implements and equipment; and that he knows of his own knowledge that the Yugoslav authorities took the land, equipment and livestock in the month of April 1946.

The Yugoslav Government has filed a statement executed in Belgrade, Yugoslavia on January 13, 1953 by Janja Lukic, a daughter of the claimant who lives near the property. She stated that all of the buildings and structures on the property were destroyed during the war by the occupiers; that since the war she and her brother Djuro Raseta have been

in control of the property; that only a small portion of the property could be rented to croppers because it was very poor land; that the small income received from the property was used to pay taxes, with any balance having been sent to her brother, and that the property has not been taken by the Yugoslav Government, except for the interest of Milos Raseta, son of Jovo, which was confiscated.

The Government of Yugoslavia and the Commission's own investigator in Yugoslavia have reported that the property is under the control of a brother, and son and daughter of the claimant. The Land Register extracts show that the property acquired in claimant's own name still stands recorded in his name; and that the rest of the property which he claims by inheritance still stands in the names of his relatives, with the exception of the fractional parts registered in the name of Milos Raseta, son of Jovo, which have been confiscated. The position of the Government of Yugoslavia is that although the claimant has acquired United States citizenship, he has not lost Yugoslav citizenship; that his share or interest in the real property is, therefore, exempt from nationalization; that no restrictive measures have been applied to it; and that he may sell or otherwise dispose of it in the same way as any other citizen of Yugoslavia.

The Government of Yugoslavia in its nationalization program enacted two nationalization laws. The first, the Nationalization Law of December 5, 1946 (Official Gazette No. 98, December 6, 1946), nationalized 42 kinds of "economic enterprises of general, national and republican importance," and did not include agricultural property such as that claimed herein.

The second law, the Nationalization Law of April 28, 1948 (Official Gazette No. 36, April 29, 1948), nationalized additional kinds of "economic enterprises" and certain real property, including "all real property owned by foreign citizens," with certain stated exceptions not here applicable, and authorized the Ministry of Justice to "issue the necessary instructions for the transfer to the State of nationalized

real property." Instructions issued on June 23, 1948, pursuant to such authority, contain the following definition of "foreign citizens" (Official Gazette No. 53, June 23, 1948):

> "IX. Our emigrants who have acquired foreign citizenship but who have not obtained a release from our citizenship, and who neither have a decree from the Ministry of the Interior stating that they have lost their citizenship nor that their citizenship was revoked, are not considered foreign citizens. Therefore the real property of such persons is not nationalized, regardless of the class of property and regardless of whether they are farmers or not."

Thus, it appears that the Nationalization Law of April 28, 1948, as construed by the Ministry of Justice of Yugoslavia under authority conferred in the Act itself, is not applied by the Government of Yugoslavia as a taking of property of "foreign citizens" if such citizens have not lost Yugoslav citizenship. Apparently, the claimant has been held to be within that category, and in the absence of actual interference with his ownership or possession, of which there is no evidence or suggestion, he is not eligible to receive an award under the Yugoslav Claims Agreement of 1948.

For the foregoing reasons, the claim is denied.

Dated at Washington, D. C.

MAY 26 1954

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

In the Matter of the Claim of	:	
MILE RASETA Box 34 Curtisville, Pennsylvania	:	Docket No. Y-1112 Decision No. 853
Under the Yugoslav Claims Agreement of 1948 and the International Claims Settlement Act of 1949	:	

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Counsel for Claimant:

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FINAL DECISION

The Commission by Proposed Decision dated May 26, 1954, denied this claim in its entirety. The Government of Yugoslavia did not file a brief as amicus curiae. The claimant requested a hearing which was held on September 7, 1954, at which the claimant testified on his own behalf and his counsel made oral argument. Thereafter, claimant filed a brief.

At the hearing claimant testified principally to the effect that he owned a larger amount of property than found by the Commission in its Proposed Decision. The Commission is not, however, persuaded by his testimony, and, accordingly, affirms its Proposed Decision on this point.

Claimant's principal argument at the hearing and in the brief is that the claim should be allowed on one or the other of two grounds which may be summarized as follows: (1) That Yugoslav

authorities before July 19, 1948 (the date of the Agreement), had continuously interfered with his use and enjoyment of the property and that such interference amounted to a taking of his property, or (2) that the finding of the Yugoslav Government that he never lost Yugoslav citizenship was erroneous because he never was a citizen of Yugoslavia and that his property was, therefore, taken by operation of law on April 28, 1948 pursuant to the Nationalization Law of that date.

The first ground may be disposed of quickly. There is no persuasive evidence of record, including the testimony adduced at the hearing, to support it. It must, therefore, be rejected.

The second ground is, however, of some substance; and because of its importance in this and many similar claims, we will state our views regarding it at some length. Claimant contends that he never was a citizen of Yugoslavia because of the following circumstances: He was born September 17, 1890, in the Hungarian part of the Austro-Hungarian Monarchy which became part of the territory of Yugoslavia, then known as the Kingdom of the Serbs, Croats, and Slovenes, after World War I. He came to the United States on July 10, 1910, and was admitted to United States citizenship on September 5, 1916. Claimant asserts that he lost his Hungarian citizenship on the latter date by virtue of Article I of the Convention between the Austro-Hungarian Monarchy and the United States, dated September 20, 1870, which provides as follows:

> "Citizens of the Austro-Hungarian Monarchy, who resided in the United States of America uninterruptedly at least five years, and during such residence have become naturalized citizens of the United States shall be held by the Government of Austria and Hungary to be American citizens and shall be treated as such."

We do not have any doubt that that Convention enabled Hungarian citizens to lose their Hungarian citizenship upon acquisition of United States citizenship by naturalization, and that the right accrued coincidentally with the acquisition of United States citizenship. It is obvious, however, that until claimant gave Hungary evidence of his acquisition of United States citizenship, or complied with any formalities required for release, or at least apprised the proper authorities of his naturalization, Hungary would continue to regard him as a citizen of Hungary. Claimant has filed no evidence establishing, or has he alleged, that on his acquisition of United States citizenship he took any action whatever regarding the matter.[1] Therefore, we must assume claimant was still regarded by Hungary as a Hungarian citizen and that his name was still entered in the register of his community, as was the case with all Hungarians, at the time the territory embraced by it became a part of Yugoslavia after the First World War.

Article 61 of the Treaty between the Allied and Associated Powers and Hungary, signed at Trianon, June 4, 1920, provided that,

> "Every person possessing rights of citizenship (pertinenza) in territory which formed part of the territories of the former Austro-Hungarian Monarchy shall obtain ipso facto to the exclusion of Hungarian nationality the nationality of the State exercising sovereignty over such territory." [2]

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1 The Hungarian citizenship law in effect on and after September 20, 1879 prescribed the conditions and circumstances under which a release could be obtained. See especially Articles 21, 22, 24, 25, 27, 28, 29 and 31.

2 The Treaty of Peace with Austria contains an identical provision (Article 70).

Article 4 of the Treaty between the Kingdom of the Serbs, Croats, and Slovenes and the principal Allied Powers, signed at St. Germain-en-Laye, September 10, 1919, provides that,

> "The Serb-Croat-Slovene State admits and declares to be Serb-Croat-Slovene nationals ipso facto and without the requirement of any formality persons of Austrian, Hungarian or Bulgarian nationality who were born in the said territory of parents habitually resident or possessing rights of citizenship (pertinenza, heimatsrecht) as the case may be there, even if at the date of the coming into force of the present Treaty they are not themselves habitually resident or did not possess rights of citizenship there.
>
> "Nevertheless, within two years after the coming into force of the present Treaty, these persons may make a declaration before the competent Serb-Croat-Slovene authorities in the country in which they are resident, stating that they abandon Serb-Croat-Slovene nationality, and they will then cease to be considered as Serb-Croat-Slovene nationals. In this connection a declaration by a husband will cover his wife, and a declaration by parents will cover their children under eighteen years of age."

It will be noted from those treaties that persons who possessed rights of citizenship in territory which formed part of the territories of the former Austro-Hungarian Monarchy became citizens of Yugoslavia. Having acquired Yugoslav citizenship the circumstances under which it could be lost is determined by the municipal law of Yugoslavia.

The first citizenship law for the entire territory of Yugoslavia was the law of September 21, 1928.[3] The following provisions of that law are pertinent:

> "Article 53. The following persons are considered to be subjects of the Kingdom at the date of the entering into force of the present law:
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> "(1) . . . .
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> "(2) Persons who were granted the nationality of this Kingdom by the Peace Convention with Austria (St. Germain), Articles 70-82; with Hungary (Trianon)

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3 Prior to this law citizenship was determined by the law in effect in the several territories which became part of Yugoslavia.

Articles 61-66; with Bulgaria (Neuilly) Articles 39-40, or who have acquired this nationality in accordance with the provisions of these peace agreements."

* * * * * * * * *

"Article 5. The nationality of the Kingdom, according to this law, is acquired as follows:

"(1) By descent (Articles 7 and 8).

"(2) By birth on the territory of the Kingdom, in cases prescribed in Article 9.

"(3) By marriage (Article 10).

"(4) By naturalization (Articles 11-19)."

* * * * * * * * *

"Article 26. Persons who desire to be released from nationality of the Kingdom for the purpose of acquiring foreign nationality should apply for the release of nationality. These applications should contain the necessary proofs and should be presented to the administrative authority of first instance . . .

"The Ministry of the Interior, after verifying the legal conditions, will issue a certificate of release of nationality. This certificate shall contain the names of each member of the family of the person in question who are at the same time released from nationality."

It will be noted from that law that a formal release had to be obtained before Yugoslavia recognized the loss of Yugoslav citizenship. [4]

Apparently, the Government of Yugoslavia has determined from evidence and data available to it or because it has no evidence regarding a loss of Hungarian citizenship by claimant that he acquired Yugoslav citizenship by virtue of the applicable treaty of peace and its own citizenship laws and that he never obtained a release from such citizenship. We do not know what evidence or data it relied upon when it made its determination. Claimant has furnished no evidence on the matter. (As indicated above,

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4 See, as an example, Hackworth, Digest of International Law, Vol. III, p. 367.

admission to United States citizenship does not ipso facto effect loss unless knowledge of that fact, at least, is communicated to the appropriate authorities.) Hence, we are not in a position to refute the determination of the Yugoslav Government, that under its laws claimant is a citizen of Yugoslavia. Even if we did and proved to our satisfaction that claimant should not be considered to be a Yugoslav citizen, we could not compel Yugoslavia to change its position and take possession of claimant's property. We wish to emphasize, however, that we did not deny this claim on the ground that claimant is a citizen of Yugoslavia. We denied the claim on the grounds that the property involved had not been interfered with by Yugoslav authorities up to December 1953, the date of our investigation, or almost six years after the Nationalization Law of April 28, 1948 became effective, and the advice of the Yugoslav Government that claimant's property had not been taken because he was considered to be a Yugoslav citizen and concluded therefrom that it would be unjust to other claimants. to make an award for it. In reaching this conclusion, we were mindful that the Government of Yugoslavia has paid a lump-sum of $17 million in settlement of claims for the nationalization or other taking of property of American nationals between September 1, 1939 and July 19, 1948 and that that sum may not be sufficient to pay claims in full; and that the Government of Yugoslavia will be obligated to pay additional compensation if it changes its position with respect to claimant's citizenship status and takes his property at a later date or treats it as having been taken by operation of law on April 28, 1948. Because of these circumstances it would, indeed, be anomalous for this Commission to hold over the objections of the Yugoslav Government, that its

interpretation of its citizenship law is incorrect and that the property had been taken on April 28, 1948. Such a holding might be desired by some claimants because they preferred to share in the $17 million fund now than await future payment, but it would clearly prejudice other claimants whose awards might be reduced proportionately. It is our view that the Commission is obligated in determining awards which are to be paid out of a limited fund to consider the interests of claimants from an over-all standpoint. It has done so with respect to this claim and is satisfied that its decision on the matter is correct.

As heretofore pointed out, we did not hold that claimant either lost or retained his Yugoslav citizenship. We merely referred in our decision to the position of the Yugoslav Government in the matter to explain why it did not consider the Nationalization Law of April 28, 1948 applicable to the claimant's property. That reference is not open to the construction and should not be construed as meaning that claimant or anyone else in a similar situation is not a citizen of the United States. For the purpose of emphasis, we add that even if we found affirmatively that a particular claimant had not lost Yugoslav citizenship under the laws of that country, such a finding would not impair or affect his United States citizenship and would not reflect upon his loyalty or attachment to the United States.

For the foregoing reasons, the Commission affirms its Proposed Decision in this claim in its entirety.

Dated at Washington, D. C.

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