

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

In the Matter of the Claim of

SVETKO YANKOVICH

677 Wooster Road North
Barberton, Ohio

Under the Yugoslav Claims Agreement
of 1948 and the International Claims
Settlement Act of 1949

Docket No. Y-460

Decision No. 1341

Counsel for Claimant:

JULIUS EANET, Esquire
Woodward Building
Washington 5, D. C.

affirmed
12-6-54

FINAL DECISION

A Proposed Decision was entered in this claim on October 12, 1954, denying it for the reason that claimant was not a national of the United States at the time certain of his property was taken by the Government of Yugoslavia and that the remainder of his property was not taken by the Government of Yugoslavia on or before July 19, 1948. Thereafter, claimant, through his attorney, filed objections to the Proposed Decision and requested a hearing. The grounds of objections are (1) that claimant was at all times on and after November 13, 1924 a citizen of the United States; (2) that he was at no relevant date a citizen of Yugoslavia; (3) that all his property was taken on or before July 19, 1948.

At the hearing, claimant testified that he was coerced into voting in a Yugoslav political election in November 11, 1945, at Stara Palanka, Yugoslavia, and affidavits by persons acquainted with the

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facts and which confirmed the coercion were admitted in evidence. We are satisfied that claimant has shown that he voted under duress and, therefore, he did not forfeit his United States Citizenship. Furuno v. Acheson (D. C. Cal., 1950), 94 F. Supp. 381; Yamamoto v. Acheson (D. C. Arizona, 1950), 93 F. Supp. 346); Etsuko Arikawa v. Acheson (D. C. Cal., 1949), 83 F. Supp. 473. We find that claimant has been a citizen of the United States since November 13, 1924, the date of his naturalization, and, accordingly, was a citizen on January 18, 1946, when the Government of Yugoslavia took 3 yutars of his land, as found in the Proposed Decision.

With respect to claimant's second objection, it is sufficient to point out that the Commission made no finding whatsoever that he was a citizen of Yugoslavia. We found that the remainder of the property had not been nationalized under the Nationalization Law of April 28, 1948, and noted that apparently the Yugoslav Government had held him to be within the exemptions provided in the Instructions issued on June 23, 1948, by the Ministry of Justice.

Claimant's third objection is germane to his second. At the hearing he brought out that those who coerced him to vote called him an "American" and claimant relies heavily on the fact that he was given an exit visa by Yugoslav authorities. There is no question here but that the Yugoslav Government concedes that claimant is a citizen of the United States. That is not the point. The point is did he lose Yugoslav citizenship? The fact that he was issued an exit visa has no bearing at all on a loss of Yugoslav citizenship, as all persons, whether they are foreign citizens or Yugoslav citizens, are required to have exit visas to leave the country. Claimant produced no evidence that he was ever issued a decree by the Ministry of Interior that he had lost his citizenship or that his citizenship was

revoked or that anyone in authority had released him of citizenship. He has, therefore, failed to show that he was not within the exemption to the Nationalization Law of April 28, 1948, provided in the Instructions of June 23, 1948.

We find that, except for the 3 yutars of land found by the Proposed Decision to have been taken on January 18, 1946, claimant's remaining land was not taken by the Nationalization Law of April 28, 1948, nor was it taken by the Government of Yugoslavia pursuant to any other law or in any other manner on or before July 19, 1948.

As to the value of the 3 yutars taken, our investigator has appraised them at 45,000 dinars, based on 1938 values, and we find this amount to be the fair and reasonable value of the property. This amount converted into dollars at the rate of 44 dinars to \$1, the rate adopted by the Commission in making awards based on 1938 values, equals \$1,022.73.

Accordingly, in full and final disposition of the claim, an award is hereby made to Svetko Yankovich, claimant, in the amount of \$1,022.73 with interest thereon at 6% per annum from January 18, 1946, the date of taking, to August 21, 1948, the date of payment by the Government of Yugoslavia, in the amount of \$158.87.

Dated at Washington, D. C.

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Counsel for Claimant:

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affirmed
12-29-54

AMENDED FINAL DECISION

On December 8, 1954 a Final Decision was entered in this claim in which an award was made to Svetko Yankovich, claimant, in the amount of \$1,022.73 plus interest in the amount of \$158.87.

Subsequent to the issuance of the Final Decision, the claimant requested a reconsideration of the Decision based on the whole record before the Commission. The claimant particularly calls attention to his affidavit of February 10, 1948, in which he swore as follows:

"The following land was taken after the German withdrawal and during the occupation of the Russian Government, and is presently in their hands:

"Approximately eighteen and one-half ($18\frac{1}{2}$) acres of the total fifty-six (56) acres owned by the undersigned was taken and divided among the following nationals of Yugoslavia:

"Zivko Vroshev	St. Palanka,	Vojvodina,	Yugoslavia
Slavko Popadich	" "	"	"
Cvetko Popadich	" "	"	"
Vukica Kljajina	" "	"	"

affirmed
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"George Mishkov	St. Palanka,	Vojvodina,	Yugoslavia
Tomash Tomich	" "	" "	" "
Son of Tomash			
Tomich	" "	" "	" "
Dushko Kojich	" "	" "	" "
Toma Cigan	" "	" "	" "
Andrija Slovak	" "	" "	" "
Andrija Chinchurak	" "	" "	" "

"An additional three (3) acres was taken by the Party and managed by Party members".

The Final Decision, it is to be noted, gave an award for three jutars.

While inconclusive, the Field Branch has filed information indicating that the property registered under Docket No. 2072 with an area of 12 jutars, 777 square fathoms, was taken pursuant to the Second Agrarian Reform Act of March 18, 1946 (Official Gazette No. 24 of March 22, 1946).

It is observed that claimant in his affidavit referred to "18 $\frac{1}{2}$ acres". Since one acre equals .704 jutars, 18 $\frac{1}{2}$ acres equals almost exactly the 12 jutars, 777 square fathoms registered under Docket No. 2072. The cumulative effect of his affidavit and the information received from the Field Branch satisfies us that claimant is entitled to an award for the taking of his one-half interest in the property registered under Docket No. 2072. We conclude that the value of his interest in this property was 93,750 dinars or \$2,130.68.

Therefore, in full and final disposition of this claim, an award is hereby made to Svetko Yankovich, claimant, in the amount of \$3,153.41 with interest thereon at 6% per annum from January 18, 1946, the date of taking, to August 21, 1948, the date of payment by the Government of Yugoslavia, in the amount of \$478.97.

Done at Washington, D. C.

DEC 3 0 1954

FOREIGN CLAIMS SETTLEMENT COMMISSION
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In the Matter of the Claim of

SVETKO YANKOVICH,
677 Wooster Road North,
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Under the Yugoslav Claims Agreement
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Docket No. Y-460

Decision No. 1341

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10/12/54

PROPOSED DECISION OF THE COMMISSION

This is a claim for \$88,000 by Svetko Yankovich and is for the taking by the Government of Yugoslavia of 56 acres of farm land with improvements and personal property located at Stara Palanka, Vojvodina, Yugoslavia.

The claimant became a citizen of the United States on November 13, 1924, by naturalization. However, he expatriated himself under the provisions of Section 401(e) of Chapter IV of the Nationality Act of 1940 (Title 8, U. S. Code §801(e)) by participating in the Yugoslav political election of November 11, 1945, at Stara Palanka, Yugoslavia. On September 24, 1946, the claimant subscribed to an oath of allegiance to the United States at the American Embassy, Belgrade, thereby reacquiring United States citizenship pursuant to the provisions of Section 323 of Chapter III of the Nationality Act of 1940, as amended by the Act of August 7, 1946. (Title 8, U. S. Code, §723). Accordingly, we find that the claimant was not a national of the United States between November 11, 1945, and September 24, 1946.

The Commission finds it established by certified extracts from the Land Register of the County Court of Backa Palanka (Docket Nos. 3839 and 3874, Cadastral District of Stara Palanka), filed by the Government of Yugoslavia, and admissions of that Government, that

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claimant owned 3 parcels of land with a total area of 3 yutars when they were taken pursuant to the Second Agrarian Reform Act of March 18, 1946 (Official Gazette No. 24 of March 22, 1946). It further appears that such property was taken pursuant to that Law on January 18, 1946, by Decision No. 30 of the People's Committee of Stara Palanka. On that date claimant was not a national of the United States.

The Agreement of July 19, 1948, between the Governments of the United States and Yugoslavia settled "all claims of nationals of the United States" for the "nationalization or other taking by Yugoslavia of property" (Article 1), provided they were nationals of the United States "at the time of nationalization or other taking" (Article 2). It expressly excluded nationals of the United States "who did not possess such nationality at the time of the nationalization or other taking" (Article 3). Since claimant was not a national of the United States at the time of taking, his claim was not settled by the Agreement of July 19, 1948, and it is not, therefore, within the jurisdiction of this Commission.

Claimant alleges that 21 acres of his property were taken by the Government of Yugoslavia in 1945. Even if claimant were to prove a taking prior to the decision of January 18, 1946, and prior to the date on which he lost United States citizenship, his position would not be improved for we have held that a claim to be within the jurisdiction of this Commission must be owned continuously by United States nationals from the date the claim arose to at least July 19, 1948, the date the Agreement was signed. (Decision No. 857, In the Matter of the Claim of Jerko Bogovich, et al, Docket No. Y-1757).*

In addition, certified extracts from the County Court of Backa Palanka (Docket Nos. 2112, 2495, 2091, 2072, 3019, 3042 and 3394,

* A copy of this Decision is enclosed.

Cadastral District of Stara Palanka), filed by the Government of Yugoslavia, establish that claimant is the recorded owner of 4 parcels of land with a total area of 7 yutars, 1139 square fathoms, the owner of a one-half interest in 8 parcels of land with a total area of 69 yutars, 166 square fathoms, with a house on one of the parcels, and a 25/30ths interest in 1 parcel of land with an area of 3 yutars, 472 square fathoms.

The Government of Yugoslavia and this Commission's investigator report that the land is presently used by the Peasants' Cooperative "Svetozar Markovic," and our investigator also reports that the claimant's house is at present occupied by the bookkeeper of the local People's Committee, although claimant's son-in-law, Slavko Suboticki has a room in the dwelling and exercises nominal control of the property.

As previously stated the Yugoslav Government maintains that these properties are still owned by claimant to the extent indicated. Its position is that although the record owner has acquired United States citizenship he has not lost Yugoslav citizenship; that the property is, therefore, exempt from nationalization; that no restrictive measures have been applied to it; and that it may be sold or otherwise disposed of in the same way as the property of any 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 real 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 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, and apparently the claimant has been held to be within that category.

The claimant has filed a certified copy of a decision of the County Court of Backa Palanka dated June 16, 1950, under which the "entire property" of claimant including the realty registered under Docket Nos. 3394, 2112, 2091, 2495, 2072, 3019 and 3042, Stara Palanka, was confiscated on the date of the decision, pursuant to the Law Regarding the Loss of Citizenship of October 23, 1946, effective October 25, 1946 (Official Gazette No. 86, October 25, 1946).

The Yugoslav Government has filed a certified copy of a decision of the same court dated May 15, 1951, cancelling the sequestration in 1949 and the confiscation in 1950 of claimant's property on the grounds that the Ministry of Internal Affairs by its decision No. IV.-60147/50 of February 12, 1951, reinstated claimant's Yugoslav citizenship.

In any event we need not and do not decide whether the sequestration and confiscation proceedings or the occupancy of claimant's property

by a local peasants' co-operative constituted a taking of the property, since the jurisdiction of this Commission is limited under the Claims Agreement of 1948 to the nationalization and other taking of property occurring between September 1, 1939 and July 19, 1948 and those actions took place after the latter date.

The same conclusions apply to the personal property for which claim is made. Neither nationalization law cited above applied to personalty, and while the cancelled sequestration and confiscation proceedings applied to claimant's entire property and while the Yugoslav Government concedes that certain personal property is temporarily "managed" by the "Svetozar Markovic" peasants' co-operative, these actions with respect to the personalty took place after July 19, 1948, the date of the Agreement. It may also be mentioned that our investigator reports that claimant's furniture and certain other personalty are still in the custody of his son-in-law.

Therefore, in the absence of actual interference with this real and personal property, between September 1, 1939 and July 19, 1948, of which there is no evidence, the claim for such property must also be denied.

For the foregoing reasons, the claim is denied in its entirety.

Dated at Washington, D. C.

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