

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

RUSKA K. ANGELOFF

Claim No. BUL-2-041

Decision No. BUL-27

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered on February 17, 1971.

Hearing on the record held on March 31, 1971

FINAL DECISION

This claim against the Government of Bulgaria under Section 303(4), Title III, of the International Claims Settlement Act of 1949, as amended, is based upon the asserted loss of a co-operative apartment at No. 57 Stamboliiski Boulevard in Sofia, Bulgaria, damage caused to that apartment in consequence of World War II, unidentified bonds in the face amount of 7,000 leva, loss of rental income, a mortgage on unidentified real property in the principal amount of 5,706.49 Swiss francs, an account with an unidentified bank, all in Bulgaria. The claim was denied by Proposed Decision dated February 17, 1971, for the failure of the claimant, RUSKA K. ANGELOFF, to establish that the subject property was nationalized, compulsorily liquidated, or otherwise taken by the Government of Bulgaria between August 9, 1955, and July 2, 1963, on a date when such property was owned by a national of the United States.

The claimant filed objections to the Proposed Decision on February 17, 1971, and argues that she is entitled to compensation because she was a permanent resident of the United States from 1938 until her naturalization on July 1, 1963.

The term "national of the United States" is defined in Section 301(2), Title III, of the International Claims Settlement Act of 1949 (69 Stat. 570 (1955), 22 U.S.C. §§1641-1641q (1964)), as further amended by Section 10 of Public Law 90-421, approved on July 24, 1968 (82 Stat. 420 (1968)), as follows:

(2) "National of the United States" means
(A) a natural person who is a citizen of the
United States . . . It does not include aliens.

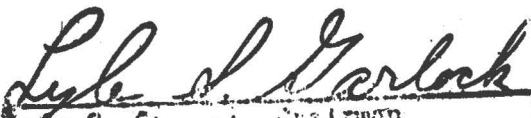
It is well settled law that an alien does not become a national of the United States by naturalization until such time as a court of competent jurisdiction entered its order of naturalization. Until such act occurred, the claimant did not acquire the status of citizenship, de facto or otherwise, but rather remained an alien under the Nationality Act of 1940. (Petition of Moser, 182 F. 2d 734 (2d Cir. 1950), rev'd on other grounds, 340 U.S. 41 (1951); Johnson v. Nickoloff, 52 F. 2d 1074 (9th Cir. 1931). It is also clear that permanent residence may not be equated with nationality of the United States.

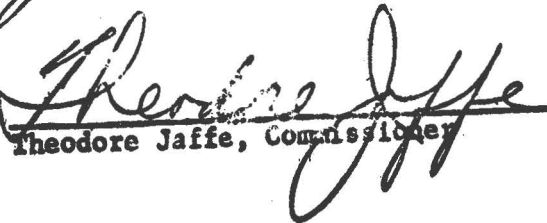
It is concluded therefore, that the claimant did not become a "National of the United States" until the order of naturalization was issued, assertedly, on July 1, 1963. Inasmuch as the claimant, the owner of the property involved in this claim, failed to establish that her loss occurred on July 1 or 2, 1963, the date on which the property was owned by a national of the United States prior to the final date covered by the Act, supra, her claim is not compensable thereunder. Therefore, it is

ORDERED that the Proposed Decision of February 17, 1971, denying this claim, be affirmed and entered as the Final Decision in this matter.

Dated at Washington, D. C.
and entered as the Final
Decision of the Commission

APR 7 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

RUSKA K. ANGELOFF

Claim No. BUL-2-041

Decision No. BUL-2-

27

Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

This claim, for 1,191,696.78 leva, against the Government of Bulgaria under Section 303(4), Title III, of the International Claims Settlement Act of 1949, as amended, is based upon the asserted loss of a co-operative apartment at No. 57 Stamboliiski Boulevard in Sofia, Bulgaria, damage caused to that apartment in consequence of World War II, unidentified bonds in the face amount of 7,000 leva, loss of rental income, a mortgage on unidentified real property in the principal amount of 5,706.49 Swiss francs, an account with an unidentified bank, all in Bulgaria. The claimant, RUSKA K. ANGELOFF, states that she has been a national of the United States since her naturalization on July 1, 1963.

Under Section 303, Title III, of the International Claims Settlement Act of 1949 (69 Stat. 570 (1955), 22 U.S.C. §§1641-1641q (1964)), as further amended by Section 10 of Public Law 90-421, approved on July 24, 1968 (82 Stat. 420 (1968)), the Commission is given jurisdiction over certain claims of nationals of the United States included within the terms of the Bulgarian Claims Agreement of 1963 (Agreement Between the Government of the United States of America and the Government of the People's Republic of Bulgaria Regarding Claims of United States Nationals and Related Financial Matters, July 2, 1963, 14 UST 969; TIAS 5387 (1963)).

The jurisdiction of the Commission is set forth in Section 303(4) of the Act, supra, which authorizes 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 arising out of the failure of that government to pay effective compensation for the nationalization, compulsory liquidation, or other taking of property of nationals of the United States between August 9, 1955 and July 2, 1963, the effective date of the Bulgarian Claims Agreement.

It is clear, therefore, that this new section of the Act does not confer jurisdiction upon the Commission to consider all claims which were settled and discharged under the Bulgarian Claims Agreement of 1963 but rather, provides for a limited class only, namely, those which arose between August 9, 1955 and July 2, 1963, as a result of the nationalization, compulsory liquidation, or other taking of property.

It is important to note that other classes of claims settled and discharged by the Agreement which arose prior to August 9, 1955 were provided for pursuant to Subsections (1), (2) and (3) of Section 303 of the Act, supra. That program was completed on August 9, 1959 pursuant to an express statutory mandate.

Additionally, under well established principles of international law, in order for a claim to be compensable, the property upon which the claim is based must have been owned by a national of the United States on the date that it was taken and the claim which arose from such taking must have been continuously owned thereafter by a United States national until its filing with the Commission.

This is also clear from Article I(2) of the Bulgarian Claims Agreement of 1963 which provides that the term "claims of nationals of the United States of America" as used in subparagraph (b), which relates to claims for

the nationalization, compulsory liquidation, or other taking of property, refers to claims which were owned by nationals of the United States of America "on the effective date of nationalization, compulsory liquidation, or other taking and continuously thereafter until filed with the Government of the United States of America."

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim.
(FCSC Reg., 45 C.F.R. §531.6(d) (1970)).

In her Statement of Claim the claimant stated that the property involved in her claim was nationalized or lost in April 1946, and submitted a copy of her undated petition, addressed to the Bulgarian Government for the "release" of her expropriated apartment at No. 57 Stamboliiski Boulevard in Sofia. In view of such information, the claimant was advised by Commission letter dated September 11, 1970, of the provisions of the Act, supra, as to the type of evidence proper for submission to establish this claim, and the sources from which it may be obtained. No reply was received, nor was any documentation submitted.

Thereafter, by letter of November 16, 1970, the claimant was advised that this matter had been reached for determination. In that letter it was again suggested that supporting evidence be submitted within 30 days from the date thereof and the claimant was informed that after that date it may become necessary for the Commission to make a determination on the basis of the record then available.

By letter of December 15, 1970, the claimant submitted a letter dated September 28, 1970, and notes from one Augustin Peitschinov, a resident of Sofia, informing the claimant, among other things, that the co-operative apartment at No. 57 Stamboliiski Boulevard in Sofia was nationalized by the Government of Bulgaria on August 4, 1949. No evidence has been submitted concerning the remaining portions of this claim to date.


In view of the foregoing, the Commission finds that the claimant has not met the burden of proof in that she has failed to establish that her property in Bulgaria was nationalized or otherwise taken by the Government of that country between August 9, 1955, and July 2, 1963, on a date when such property was owned by a national of the United States, as required for compensation. Accordingly, this claim must be and it is hereby denied.

The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

Dated at Washington, D. C.
and entered as the Proposed
Decision of the Commission

FEB 17 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

Notice: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the 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 Reg., 45 C.F.R. 531.5(e) and (g) as amended)