

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES

Washington 25, D. C.

In the Matter of the Claim of

ADOLF WEISSMAN
345 East 77th Street
New York 21, New York

Claim No. BUL-1,300

RANKO M. BRASHICH and RANWILA BRASHICH
42-66 Parsons Boulevard
Flushing, New York

Claim No. BUL-1,301

ALFRED BONDY
434 West 120th Street
New York 27, New York

Claim No. BUL-1,302

Decision No. BUL-155

Against the Government of Bulgaria;
Under the International Claims Settlement
Act of 1949, as amended.

FINAL DECISION

These are claims against the Government of Bulgaria under Section 303(1) of the International Claims Settlement Act of 1949, as amended, by the owners of 100% of the stock of Jugoslovenski rudnici mangana "Cer-Nebojsa" A.D., a closed family corporation which allegedly suffered property losses in Yugoslavia during World War II. Claimant ADOLF WEISSMAN also alleges a confiscation by the Bulgarian Government of certain property of which he was the sole owner. Claimant ALFRED BONDY, owner of 20% of the stock of the corporation, became a United States national by naturalization on November 13, 1944. The other claimants did likewise in 1955.

In a Proposed Decision issued on June 12, 1957, the claims were denied on the grounds that: (1) the corporation which suffered the loss was not a national of the United States as defined in the Act, and less than 25% of its outstanding capital stock was owned by nationals of the United States at the time of loss of property, as required by Section 311(b) of the Act; (2) the loss of property did not occur in Bulgaria, as required for compensability under Section 303(1) of the Act; and (3) neither the property nor the claim arising from its loss was owned by nationals of the United States on October 28, 1944, the date of the armistice with Bulgaria, as required

for compensability under Section 303(1) of the Act.

In objecting to the Proposed Decision, claimants contend that United Nations nationality on the date of the armistice will satisfy the eligibility requirement of Section 303(1) of the Act, and United Nations nationality at the time of loss will satisfy the requirement of Section 311(b) of the Act as to corporate ownership. The Commission holds that United States nationality on the armistice date is a requirement of Section 303(1) for compensation under the International Claims Settlement Act, for the reasons stated in the Final Decision in the Matter of the Claim of Marget Factor, HWK-30,214 (copy attached). Statements therein regarding article 24 of the treaty of peace with Rumania, apply with equal force to article 23 of the treaty of peace with Bulgaria. It is pointed out further that the language of Section 311(b) of the Act contains a specific requirement of ownership of 25% of the outstanding capital stock in a foreign corporation by United States nationals, at the time of loss.

Claimants further contend that the territory in which the loss occurred was under Bulgarian sovereignty at the time of loss, having been declared by the Bulgarian Government to have been liberated from Yugoslavia and re-integrated into Bulgaria. The Commission holds that a claim against Bulgaria under Section 303(1) of the Act is compensable only if the loss forming the basis of the claim occurred within the boundaries of Bulgaria as they existed on September 15, 1947, the effective date of the treaty. By treaty definition (article 1), these are the boundaries which existed on January 1, 1941. Moreover, Yugoslavian territory occupied by Bulgaria during the war did not de jure become a part of Bulgaria, despite official Bulgarian statements to the contrary. In international law, the only theory under which Bulgaria could be considered as having acquired sovereignty over the territory in question, so that a taking of property therein would have occurred "in Bulgaria" within the meaning of the Act, is that of subjugation. It is well established that acquisition of territory by subjugation requires a formal annexation following a firmly established conquest; and that a conquest does not become firmly established so long as the armed conflict continues. (Oppenheim, International Law, vol. I, secs. 169, 210, 236, 237, 239.

In this instance, the armed conflict continued until the conquest was nullified under the terms of the armistice.

Full consideration having been given to the objections of the claimants, and to the arguments presented at a hearing, 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.

DEC 11 1957

Whitney Gilliland

Paul [unclear]

Henry B. Clay

COMMISSIONERS

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

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ADOLF WEISSMAN	:	
345 East 77th Street	:	
New York 21, New York	:	Claim No. BUL-1,300
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Flushing, New York	:	Claim No. BUL-1,302
	:	
ALFRED BONDY	:	
434 West 120th Street	:	Decision Nos. BUL-155
New York 27, New York	:	
	:	
Under the International Claims	:	
Settlement Act of 1949, as amended	:	

PROPOSED DECISION

These are claims against the Government of Bulgaria under Section 303(1) of the International Claims Settlement Act of 1949, as amended, by ADOLF WEISSMAN, RANKO M. BRASHICH, RADMILA BRASHICH, and ALFRED BONDY, who allege acquisition of United States nationality by naturalization on April 11, 1955, April 12, 1955, April 12, 1955, and November 13, 1944, respectively.

The claims are based upon an alleged loss, during World War II, of the property in Yugoslavia of Jugoslovenski rudnici mangana "Cer-Nebojsa" A.D., a closed family corporation, 20% of the stock of which was owned by ALFRED BONDY, 40% by ADOLF WEISSMAN, and 40% by RANKO M. BRASHICH and RADMILA BRASHICH.

Section 303(1) of the Act provides for the receipt and determination, among other claims, of those against the Government of Bulgaria for its failure 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

The corporation herein is not a national of the United States, as defined in the Act. Section 311(b) of the Act provides--

A claim based upon an interest, direct or indirect, in a corporation or other legal entity which directly suffered the loss with respect to which the claim is asserted, but which was not a national of the United States at the time of the loss, shall be acted upon without regard to the nationality of such legal entity if at the time of the loss at least 25 per centum of the outstanding capital stock or other beneficial interest in such entity was owned, directly or indirectly, by natural persons who were nationals of the United States.

Inasmuch as less than 25% of the outstanding capital stock of the corporation was owned by nationals of the United States at the time of the loss of property, and the corporation is not itself a national of the United States, the claim must be denied.

A further ground for denial of the claim arises from the fact that article 23 of the treaty of peace with Bulgaria requires payment of compensation only for such property as was in Bulgaria when lost or destroyed.

Moreover, a claim against Bulgaria under Section 303(1) of the Act is not compensable unless the property forming the basis of the claim, or the claim arising from its loss, was owned by a national or nationals of the United States on October 28, 1944, the date of the armistice with Bulgaria, at which time none of the claimants herein had acquired United States nationality.

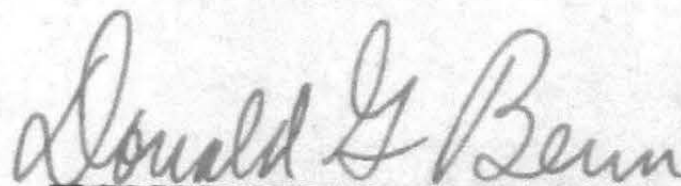
In addition to the corporate property, claimant ADOLF WEISSMAN alleges a confiscation by the Bulgarian Government of certain property of which he was the sole owner. While Section 311(b) of the Act is without application to this portion of the claim, it must be denied for lack of United States nationality in the claimant as of October 28, 1944.

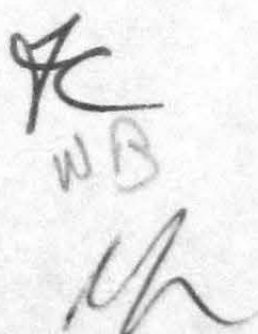
Accordingly, the claims are denied for the reasons stated. The Commission finds it unnecessary to make determinations with respect to other elements of the claims.

Dated at Washington, D. C.

JUN 12 1957

FOR THE COMMISSION:


Donald G. Benn, Director
Balkan Claims Division



FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES

Washington 25, D. C.

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ALFRED BONDY
434 West 120th Street
New York 27, New York

: Claim No. BUL-1,302
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: Decision No. BUL-155
:
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Against the Government of Bulgaria:
Under the International Claims Settlement
Act of 1949, as amended.

FINAL DECISION

These are claims against the Government of Bulgaria under Section 303(1) of the International Claims Settlement Act of 1949, as amended, by the owners of 100% of the stock of Jugoslovenski rudnici mangana "Cer-Nebojsa" A.D., a closed family corporation which allegedly suffered property losses in Yugoslavia during World War II. Claimant ADOLF WEISSMAN also alleges a confiscation by the Bulgarian Government of certain property of which he was the sole owner. Claimant ALFRED BONDY, owner of 20% of the stock of the corporation, became a United States national by naturalization on November 13, 1944. The other claimants did likewise in 1955.

In a Proposed Decision issued on June 12, 1957, the claims were denied on the grounds that: (1) the corporation which suffered the loss was not a national of the United States as defined in the Act, and less than 25% of its outstanding capital stock was owned by nationals of the United States at the time of loss of property, as required by Section 311(b) of the Act; (2) the loss of property did not occur in Bulgaria, as required for compensability under Section 303(1) of the Act; and (3) neither the property nor the claim arising from its loss was owned by nationals of the United States on October 28, 1944, the date of the armistice with Bulgaria, as required

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for compensability under Section 303(1) of the Act.

In objecting to the Proposed Decision, claimants contend that United Nations nationality on the date of the armistice will satisfy the eligibility requirement of Section 303(1) of the Act, and United Nations nationality at the time of loss will satisfy the requirement of Section 311(b) of the Act as to corporate ownership. The Commission holds that United States nationality on the armistice date is a requirement of Section 303(1) for compensation under the International Claims Settlement Act, for the reasons stated in the Final Decision in the Matter of the Claim of Margot Factor, RUM-30,214 (copy attached). Statements therein regarding article 24 of the treaty of peace with Rumania, apply with equal force to article 23 of the treaty of peace with Bulgaria. It is pointed out further that the language of Section 311(b) of the Act contains a specific requirement of ownership of 25% of the outstanding capital stock in a foreign corporation by United States nationals, at the time of loss.

Claimants further contend that the territory in which the loss occurred was under Bulgarian sovereignty at the time of loss, having been declared by the Bulgarian Government to have been liberated from Yugoslavia and re-integrated into Bulgaria. The Commission holds that a claim against Bulgaria under Section 303(1) of the Act is compensable only if the loss forming the basis of the claim occurred within the boundaries of Bulgaria as they existed on September 15, 1947, the effective date of the treaty. By treaty definition (article 1), these are the boundaries which existed on January 1, 1941. Moreover, Yugoslavian territory occupied by Bulgaria during the war did not de jure become a part of Bulgaria, despite official Bulgarian statements to the contrary. In international law, the only theory under which Bulgaria could be considered as having acquired sovereignty over the territory in question, so that a taking of property therein would have occurred "in Bulgaria" within the meaning of the Act, is that of subjugation. It is well established that acquisition of territory by subjugation requires a formal annexation following a firmly established conquest; and that a conquest does not become firmly established so long as the armed conflict continues. (Oppenheim, International Law, vol. I, secs. 169, 210, 236, 237, 239.)

In this instance, the armed conflict continued until the conquest was nullified under the terms of the armistice.

Full consideration having been given to the objections of the claimants, and to the arguments presented at a hearing, 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.

DEC 11 1957

Whitney Hilliard

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Henry S. Clay

COMMISSIONERS

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ALFRED BONDY
434 West 120th Street
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Decision Nos. BUL-

Under the International Claims
Settlement Act of 1949, as amended

PROPOSED DECISION

These are claims against the Government of Bulgaria under Section 303(1) of the International Claims Settlement Act of 1949, as amended, by ADOLF WEISSMAN, RANKO M. BRASHICH, RADMILA BRASHICH, and ALFRED BONDY, who allege acquisition of United States nationality by naturalization on April 11, 1955, April 12, 1955, April 12, 1955, and November 13, 1944, respectively.

The claims are based upon an alleged loss, during World War II, of the property in Yugoslavia of Jugoslovenski rudnici mangana "Cer-Nebojsa" A.D., a closed family corporation, 20% of the stock of which was owned by ALFRED BONDY, 40% by ADOLF WEISSMAN, and 40% by RANKO M. BRASHICH and RADMILA BRASHICH.

Section 303(1) of the Act provides for the receipt and determination, among other claims, of those against the Government of Bulgaria for its failure 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

The corporation herein is not a national of the United States, as defined in the Act. Section 311(b) of the Act provides—

A claim based upon an interest, direct or indirect, in a corporation or other legal entity which directly suffered the loss with respect to which the claim is asserted, but which was not a national of the United States at the time of the loss, shall be acted upon without regard to the nationality of such legal entity if at the time of the loss at least 25 per centum of the outstanding capital stock or other beneficial interest in such entity was owned, directly or indirectly, by natural persons who were nationals of the United States.

Inasmuch as less than 25% of the outstanding capital stock of the corporation was owned by nationals of the United States at the time of the loss of property, and the corporation is not itself a national of the United States, the claim must be denied.

A further ground for denial of the claim arises from the fact that article 23 of the treaty of peace with Bulgaria requires payment of compensation only for such property as was in Bulgaria when lost or destroyed.

Moreover, a claim against Bulgaria under Section 303(1) of the Act is not compensable unless the property forming the basis of the claim, or the claim arising from its loss, was owned by a national or nationals of the United States on October 28, 1944, the date of the armistice with Bulgaria, at which time none of the claimants herein had acquired United States nationality.

In addition to the corporate property, claimant ADOLF WEISSMAN alleges a confiscation by the Bulgarian Government of certain property of which he was the sole owner. While Section 311(b) of the Act is without application to this portion of the claim, it must be denied for lack of United States nationality in the claimant as of October 28, 1944.

Accordingly, the claims are denied for the reasons stated. The Commission finds it unnecessary to make determinations with respect to other elements of the claims.

Dated at Washington, D. C.

FOR THE COMMISSION:

Donald G. Bean, Director
Balkan Claims Division

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divisions
Orig. filed in B-1-1,300 folder

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Whitney Hilliland

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Accordingly, the claims are denied for the reasons stated. The Commission finds it unnecessary to make determinations with respect to other elements of the claims.

Dated at Washington, D. C.

FOR THE COMMISSION:

957
Donald G. Benn, Director
Balkan Claims Division

Orig. reviewed filed in BU 1-1300 folder