

DEPARTMENT OF STATE
INTERNATIONAL CLAIMS COMMISSION
OF THE UNITED STATES

In the Matter of the Claim of

ARTHUR and ELISABETH TANHAUSER

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

Docket No. Y-503

Decision No. 4

FINAL DECISION

MARVEL, CHAIRMAN. Pursuant to notice, this claim came on for hearing before the International Claims Commission of the United States. The two claimants appeared in person and testified as to the taking of their property located near Zagreb, Yugoslavia, by the Yugoslav Government on or about June 16, 1945. Both claimants admitted that at the time of such taking of their property they were stateless persons. Both claimants admitted that their declarations of intention to become citizens of the United States were made in October 1949 and that they had not as yet become citizens of the United States.

The Yugoslav Claims Agreement of 1948, which was signed on July 19, 1948, states in part:

Article 1 (a) The Government of Yugoslavia agrees to pay, and the Government of the United States agrees to accept, the sum of \$17,000,000 United States currency in full settlement and discharge of all pecuniary claims of the Government of the United States against the Government of Yugoslavia, other than those arising from Lend-Lease and civilian supplies furnished as military relief, arising between September 1, 1939 and the date hereof, and in full settlement and discharge of all

claims of nationals of the United States against the Government of Yugoslavia on account of the nationalization and other taking by Yugoslavia of property and of rights and interests in and with respect to property, which occurred between September 1, 1939 and the date hereof.

* * * * *

Article 2 The claims of nationals of the United States to which reference is made in Article 1 of this Agreement include those respecting property, and rights and interests in and with respect to property, which at the time of nationalization or other taking were:

- (A) Directly owned by an individual who at such time was a national of the United States.

The International Claims Settlement Act of 1949 provides in part:

Sec. 4. (a) The International Claims Commission shall have jurisdiction to receive, examine, adjudicate, and render final decisions with respect to claims of the Government of the United States and of nationals of the United States included within the terms of the Yugoslav Claims Agreement of 1948, * * *

Sec. 2. (c) The term "nationals of the United States" includes (1) persons who are citizens of the United States, and (2) persons who, though not citizens of the United States, owe permanent allegiance to the United States. It does not include aliens.

The term "nationals of the United States" who can assert claims for property nationalized or otherwise taken by the Yugoslav Government is strictly limited, by the Agreement of July 19, 1948, to those who were nationals at the time of nationalization or other taking occurring between September 1, 1939 and July 19, 1948.

This limitation expressed in the Yugoslav Claims Agreement of 1948 conforms with international law and practice that an injury to an individual is an injury to the state of which he is a national. Thus, the nationalization or other taking of the property of a person who is not a citizen of the United States at the time of such taking could not constitute an injury to the United States warranting it to intervene on his behalf.

These claimants, not being nationals of the United States during the specified period of time, cannot assert a claim against the fund created by the Yugoslav Claims Agreement of 1948.

The claim is denied in whole.

This decision constitutes a full and final disposition of this case.

April 16, 1952

DEPARTMENT OF STATE
INTERNATIONAL CIA IMS COMMISSION
OF THE UNITED STATES

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PROPOSED DECISION

MARVEL, CHAIRMAN. This claim seeks recovery of 3,975,994 dinars, the asserted value of certain property which is alleged to have been nationalized or otherwise taken by the Yugoslav Government on or about June 16, 1945. The claim sets out that the claimants are not citizens or nationals of the United States, nor were they so at the time of the alleged taking of the property by the Yugoslav Government.

This claim is before the Commission upon the proceeding of the Solicitor of the Commission pursuant to Section 300.16 of the Rules of Practice and Procedure of the Commission.

Proposed Decision No. 2 of this Commission, In the Matter of the Claim of DOLORES MOJA MOORE (Y-910), is controlling in this case. These claimants, not being nationals of the United States at the time of nationalization or other taking of the property occurring between September 1, 1939 and July 19, 1948, cannot assert a claim against the fund created by the Yugoslav Claims Agreement of 1948.

The claim is denied in whole.

January 15, 1952

