

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

In the Matter of the Claim of

B ARBARA FISCHER
1411 North State Street,
Chicago, Illinois

- and -

**STEFAN P. FISCHER as Administrator of
the Estate of STEFAN FISCHER, Deceased**
4720 North Hamilton Avenue,
Chicago 25, Illinois
Under the Yugoslav Claims Agreement
of 1948 and the International Claims
Settlement Act of 1949

Docket No. **Y-690**

Decision No. **1255**

*OK
4/11/54
2/25/1954*

*rk.
11-9-54*

FINAL DECISION

Thirty days having elapsed since the claimant(s) herein and the Government of Yugoslavia were notified of the Commission's Proposed Decision on the above claim, and the claimant(s) having filed no objections thereto, and a brief filed by the Government of Yugoslavia having received due consideration, such Proposed Decision is hereby adopted as the Commission's Final Decision on the claim.

Done at Washington, D. C. NOV 10 1954

*IHB
JMM*

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

In the Matter of the Claim of

BARBARA FISCHER

1411 North State Street
Chicago, Illinois

Docket No. Y-690

- and -

STEFAN P. FISCHER as Administrator of
the Estate of STEFAN FISCHER, Deceased
4720 North Hamilton Avenue
Chicago 25, Illinois

Decision No. 1255

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

ok.
H
9/9/54

PROPOSED DECISION OF THE COMMISSION

*OK ✓
9/2/54
sep 9/1*

This is a claim for \$20,012 by Stefan P. Fischer, as Administrator of the Estate of Stefan Fischer, deceased, and by Barbara Fischer. The late Stefan Fischer was a citizen of the United States from January 31, 1929, the date of his naturalization, until his death on November 28, 1949. Barbara Fischer was naturalized on November 23, 1948. The claim is for the taking by the Government of Yugoslavia of land and structures at Knicanin and personal property described as livestock, furniture, clothing and the harvest of 1944.

The Commission finds it established by certified extracts from the Land Register of the County Court of Zrenjanin (Docket Nos. 30, 2019, 2147, 1993, 1376, 2149, 2226, 2553 and 2677, Cadastral District of Knicanin), filed by the Government of Yugoslavia, and admissions of that Government that the late Stefan Fischer and Barbara Fischer each owned a one-half interest in 15 parcels of land with a total area of 17 yutars, 1,384 square fathoms, with structures on two of the parcels, when they were taken by the Government of Yugoslavia on February 6, 1945, pursuant to the Enemy Property Law of November 21, 1944 (Official Gazette No. 2 of February 6, 1945).

LHB

As stated above, claimant Barbara Fischer became a national of the United States on November 28, 1948. 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), who 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 Barbara Fischer was not a national of the United States at the time of taking, her claim was not settled by the Agreement of July 19, 1948, and it is not, therefore, within the jurisdiction of this Commission.

Claimant Stefan P. Fischer, as Administrator of the Estate of Stefan Fischer, has filed a certified copy of Letters of Administration issued to him on April 1, 1952 by the Probate Court of Cook County, Illinois. According to an affidavit of the late Stefan Fischer and claimant Barbara Fischer, dated January 10, 1949, they had the following children living: 1) Elizabeth, born June 7, 1909 at St. Louis, Missouri; 2) Magdalene Marie, born October 21, 1910 at St. Louis, Missouri; and 3) Stefan Peter Fischer, born July 23, 1925 at Chicago, Illinois. According to the affidavit, they had two children who died in infancy. Since all the surviving children were born in the United States, and Barbara Fischer was naturalized prior to the death of Stefan Fischer, the entire claim of the Estate of Stefan Fischer is entitled to recognition.

Claimants have filed unsworn statements of Anna Reif, Kristof Janczer, Stefan Dama, Melchior Bogdan and Stefan P. Fischer, former residents of the vicinity, who allege that the property claimed was worth more than \$25,000 at the time of taking. There is no indication that these persons have expert knowledge of land valuations, especially of the dinar valuation of land in Yugoslavia in relation to the valuation in American dollars. A committee designated by local Yugoslav authorities

appraised the land at 220,992.25 dinars and the structure at 30,000 dinars. An investigator for this Commission appraised the land at 223,344 dinars and the structure at 35,300 dinars, or a total of 258,644 dinars. Both appraisals were made on the basis of 1938 values.

With reference to the claim for personal property, the Commission's investigator and the Yugoslav Government both report that it was carried away by the German Army in 1944. The Agreement of July 19, 1948 between the Governments of the United States and Yugoslavia settled claims for "the nationalization and other taking by Yugoslavia of property" (Article 1). War damage or looting by enemy forces is not in our view a "nationalization" or "taking" of property by the Government of Yugoslavia. We, therefore, hold that the claim for personal property herein was not settled by the Agreement of July 19, 1948, and is not within the jurisdiction of this Commission.

The Yugoslav Government states that the claim on behalf of the late Stefan Fischer should be denied because he voted in Yugoslavian elections while residing in Yugoslavia between 1933 and 1945, thereby losing his American citizenship, and has filed affidavits of two residents of Knicanin, who state, "As far as I know as a citizen in Knicanin, there was no citizen of the former Yugoslavia without electoral rights." That Government has also filed the affidavit of one Paul Luang, who states that he knew that Stefan Fischer had voted in Yugoslavia, because he had voted with him.

The Nationality Act of 1940 (8 U.S.C. 801), provides that an American citizen shall lose his citizenship if he votes in a foreign election. However, this Act did not take effect until January, 1941. No evidence has been filed indicating that the late Stefan Fischer voted subsequent to that date, and since he was an ethnic German, it is unlikely that he did so. Therefore, the Commission finds that he did not lose his United States citizenship.

The Commission is of the opinion, on the basis of all the evidence and data before it, that the fair and reasonable value of all property of claimants which was taken by the Government of Yugoslavia was 258,644 dinars as of the year 1938.* For the reasons stated above, the Commission must deny the claim of Barbara Fischer for the value of her share of the property, or 129,322 dinars. There remains like amount of 129,322 dinars as the value of the share of the property which belonged to the late Stefan Fischer. That amount converted into dollars at the rate of 44 dinars to \$1, the rate adopted by the Commission in making awards based upon 1938 valuations, equals \$2,939.14.*

AWARD

On the above evidence and grounds, this claim is allowed and an award is hereby made to Stefan P. Fischer, as Administrator of the Estate of Stefan Fischer, deceased, in the amount of \$2,939.14 with interest thereon at 6% per annum from February 6, 1945, the date of taking, to August 21, 1948, the date of payment by the Government of Yugoslavia, in the amount of \$624.22.*

Dated at Washington, D. C.

SEP 9 1954

* For the Commission's reasons for use of 1938 valuations, use of exchange rate of 44 to 1, and the allowance of interest, see attached copy of its decision in the claim of Joseph Senser.