

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

IN THE MATTER OF THE CLAIM OF

ANNA K. LAZETA

Claim No. Y2-0019

Decision No. Y2-324

Under the Yugoslav Claims Agreement of 1964
and Title I of the International Claims
Settlement Act of 1949, as amended

Appeal and objections from a Proposed Decision entered on February 28, 1968.

Hearing on the Record held on July 24, 1968.

FINAL DECISION

This claim, for an unspecified amount, is based upon the asserted ownership and loss of improved and unimproved real property and personal property located in Glogonj, Yugoslavia. Claimant, ANNA K. LAZETA, has been a national of the United States since her birth on April 8, 1911.

By Proposed Decision dated February 28, 1968, the Commission denied the claim on the ground that the subject real property was confiscated by the Government of Yugoslavia under the Enemy Property Law of November 21, 1944, as of February 6, 1945, the effective date thereof, and that such confiscation was prior to the period covered by the 1964 Agreement. The portion of the claim based upon the asserted taking of certain personal property was denied on the ground that claimant failed to sustain the burden of proof of ownership, value and nationalization or other taking by the Government of Yugoslavia between July 19, 1948 and January 20, 1965, the period covered by the Agreement.

Claimant objected to the portion of the Proposed Decision denying an award for the real property asserting that neither she nor her parents are or were Germans but simply Yugoslavs of German extraction. She asserts

that proof of ownership of property located in Yugoslavia should be sufficient to support an award under the Yugoslav Claims Agreement of November 5, 1964.

The elements necessary to prove a compensable claim under the Agreement are clearly specified in the Agreement itself. The claim must be a claim of a national of the United States. The property must have been owned by a national or nationals of the United States on the date of taking and the date of the Agreement. The taking must have been a taking by the Government of Yugoslavia and the taking must have occurred between July 19, 1948 and January 20, 1965. To sustain the burden of proof, claimant is required to submit evidence upon which the Commission can base findings of fact and conclusions of law with respect to each of the elements set forth above.

The Commission has held that claims of nationals of the United States based on nationalizations, confiscations and other takings by the Government of Yugoslavia during the period between September 1, 1939 and July 19, 1948 were settled and discharged by the Yugoslav Claims Agreement of July 19, 1948. (See Claim of Estate of Anton Schenborn, Deceased, Claim No. Y2-0474.) It follows that since the administration of the 1948 Agreement by the Commission, under the International Claims Settlement Act of 1949, was concluded on December 31, 1954 and claimant did not file a claim with the Commission thereunder, this claim is barred. In this connection it is noted that the Commission has heretofore held that claims which arose prior to July 19, 1948 are expressly excluded under Article I(a) of the Yugoslav Claims Agreement of 1964. (See Claim of Eugenia D. Stupnikov, Claim No. Y2-0071 and Claim of Mary Tscherne, Claim No. Y2-0865.)

In view of the foregoing, the Commission finds that claimant has not established that the subject property was nationalized or otherwise taken between July 19, 1948 and January 20, 1965, the period covered by the Yugoslav Claims Agreement of 1964, and concludes that this claim is outside the scope of the Yugoslav Claims Agreement of 1964.

Accordingly, the Proposed Decision is affirmed.

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

JUL 31 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, 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, 32 Fed. Reg. 412-13 (1967).)

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

IN THE MATTER OF THE CLAIM OF

ANNA K. LAZETA

Claim No. Y2- 0019

Decision No. Y2- 324

Under the Yugoslav Claims Agreement of 1964
and Title I of the International Claims
Settlement Act of 1949, as amended

PROPOSED DECISION

This claim, for an unspecified amount, is based upon the asserted ownership and loss of improved and unimproved real property and personal property located in Glogonj, Yugoslavia. Claimant, ANNA K. LAZETA, has been a national of the United States since her birth on April 8, 1911.

Under Section 4(a) of the International Claims Settlement Act of 1949, as amended (64 Stat. 13 (1950), 22 U.S.C. §1623(a) (1958)), the Commission is given jurisdiction over claims of nationals of the United States included within the terms of the Yugoslav Claims Agreement of November 5, 1964 and the Commission is directed to apply the following in the following order:

(1) The provisions of the applicable claims agreement as provided in this subsection; and (2) the applicable principles of international law, justice and equity.

Among other things, the Agreement provides as follows:

Article I. (a) The Government of Yugoslavia agrees to pay, and the Government of the United States agrees to accept, the sum of \$3,500,000 United States currency in full settlement and discharge of all pecuniary claims of nationals of the United States, whether natural or juridical persons, against the Government of Yugoslavia, on account of the nationalization and other taking of property and of rights and interests in and with respect to property which occurred between July 19, 1948 and the date of this Agreement.

Article II. The claims of nationals of the United States to which reference is made in Article I of this Agreement refer to claims which were owned by nationals of the United States on the date on which the property and rights and interests in and with respect to property on which they are based was nationalized or taken by the Government of Yugoslavia and on the date of this Agreement. (Agreement between the Government of the United States and the Government of the Socialist Federal Republic of Yugoslavia Regarding Claims of United States Nationals, November 5, 1964, which entered into force on January 20, 1965, 16 U.S.T. & O.I.A. 1965, T.I.A.S. No. 5750 (1964).)

Thus, where property was owned by a natural person at the time of its nationalization or other taking, a claim based upon such loss of property is not compensable under the Agreement unless such person was a national of the United States at the time of nationalization or other taking which must also have occurred between July 19, 1948 and the date of the Agreement.

The evidence of record includes an extract from the land records of Glogonj, liber no. 952 dated May 3, 1967, and a statement from the Secretariat of State for Foreign Affairs of the Socialist Federal Republic of Yugoslavia, dated June 30, 1967.

On the basis of the entire record comprising this claim, the Commission finds that claimant inherited an interest in certain real property in Glogonj and on February 5, 1938 was recorded as a part owner thereof under liber no. 952 of the cadastral district of Glogonj. The Commission also finds that claimant's real property was confiscated as Enemy Property under Decree of November 21, 1944 by the Government of Yugoslavia.

Claimant asserts that the above-cited confiscation was based on the error that claimant was a German citizen since she in fact is a citizen of the United States by birth. It is clear that claimant is and has continuously been a national of the United States. However, the recognition of claimant's United States nationality does not render this claim compensable.

The Commission has held that claims for the nationalization or taking of property which arose prior to July 19, 1948 are excluded under the Yugoslav Claims Agreement of 1964. (See the Claim of Eugenia D. Stupnikov, Claim No. Y2-0071, Dec. No. Y2-3; and the Claim of Mary Tscherne, Claim No. Y2-0865, Dec. No. Y2-81.)

In view of the foregoing, the Commission finds that the subject real property was confiscated by the Government of Yugoslavia under the Enemy Property Law of November 21, 1944, as of February 6, 1945, the effective date thereof, which is prior to the period covered by the Agreement of 1964. (Sl. List (Yugoslavia), No. 2, Item No. 25, February 6, 1945.) Accordingly, this portion of the claim is denied.

A portion of the claim is based upon the asserted loss of personal property.

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) as amended, 32 Fed. Reg. 412-13 (1967).)

The issues involved in claims before the Commission include the nationality of claimant and of all predecessors from whom claimant's interest in the claim is derived from the date of loss to the date of filing of the claim, claimant's ownership of the subject property or the extent of such ownership interest therein, the dates and circumstances of the asserted loss, and the value of the property at the time of loss. To sustain the burden of proof, claimant is required to submit evidence upon which the Commission can base findings of fact and conclusions of law with respect to each of the elements discussed above.

The Commission finds that claimant has failed to submit any evidence in support of this portion of her claim. Accordingly, this portion of the claim is also denied.

The Commission deems it unnecessary to consider other elements of this claim.

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

FEB 28 1968

Edward S. Re

Edward S. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

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