

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

IN THE MATTER OF THE CLAIM OF

LADISLAV J. BEVC

Claim No. Y2-0218

Decision No. Y2-0988

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

Counsel for Claimant:

Graham & James  
by John P. Meade, Esq.

Appeal and objections from a Proposed Decision entered August 21, 1968.  
Brief filed. Hearing on the record held on June 18, 1969.

FINAL DECISION

The Commission issued its Proposed Decision in this claim on August 21, 1968, denying the same for the reason that the real property and tangible personal property were nationalized or taken by the Government of Yugoslavia prior to July 19, 1948 and are, therefore, not covered and not compensable under the Yugoslav Claims Agreement of 1964. Additionally, the Commission found that the claim at the time of the loss was not owned by a United States national. The claim for the proceeds from life insurance policies and for the loss of pension rights was denied, because the Commission held that such proceeds and rights were not nationalized or taken by the Government of Yugoslavia and were not within the scope of the aforesaid Agreement.

Claimant objected to the Proposed Decision and counsel submitted a brief. In the objections and brief, claimant, in substance, contended that he was not notified of the confiscation of his property until December 24, 1955. Additionally, claimant contended that the confiscation of his personal property did not become final until February 27, 1950, a date covered by the Agreement of 1964. With respect to the insurance policies, claimant states that the confiscation of these

policies should be considered to have occurred on the dates of maturity in 1950, 1956, 1957 and 1958 - all dates covered by the Agreement of 1964. With respect to claimant's pension rights, claimant states that he has no recourse to the Government of Yugoslavia because even if recovery would be possible, it would be so small that, in effect, it would prove that claimant's contributions in the pension fund paid throughout the years were, in fact, confiscated.

Claimant also stated that the International Claims Settlement Act of 1949, as amended, and the 1964 Agreement should be so construed to qualify any person who established permanent residence in the United States as a national of the United States from the date of his entry into this country. Under such construction, Mr. BEVC would be an eligible claimant because he entered the United States in 1949.

Finally, claimant objected to the statement in the Proposed Decision which reads: ". . . inasmuch as he [claimant] was accused of being a war criminal and compelled to leave Yugoslavia." Claimant states that this accusation was never raised in open court and that the courts in Yugoslavia never rendered a decree or sentence to that effect.

We will dispose of this objection in the first place.

In his Statement of Claim, claimant asserted (on p. 8) that he was compelled to leave Yugoslavia four days before the Communist armed forces entered Ljubljana because he had remained loyal to the legitimate Yugoslav Government in exile and was opposed to the Communist forces. He further stated: "The Communists proclaimed in advance my death sentence which was resolved in a kangaroo court." Claimant continued as follows: "The fact that I left the country was construed by the Communists as though I fled the country under the protection of the German military forces, and therefore they labeled me as a 'war criminal' and similar degrading epithets. They never brought me to trial, even in absentia, but simply put my name on the list of 'war criminals' with

all the consequences such as the confiscation of all property, discrimination against my family, or constant harassment of them."

This report by the claimant was the source of the statement in the Proposed Decision that claimant was accused of being a war criminal. The Commission now notes in this regard that claimant was never formally accused of being a war criminal and that his personal integrity was never questioned.

Considering claimant's other objections and brief, the Commission finds that claimant has failed to submit any evidence to show that the real property and also his personal property to which reference is made in the Proposed Decision was confiscated after June 28, 1955, the date of claimant's naturalization. On the contrary, all the evidence and even claimant's statements indicate that such confiscation took place long before, namely, in 1945 and 1947, as stated in the Proposed Decision. The alleged fact that the confiscation decree concerning the personal property did not become final until 1950 would not alter the date of confiscation, even if this fact were established, because a decree affirming the confiscation does not postpone the effective date of the confiscation. The other alleged fact that claimant was notified of the confiscation as late as December 24, 1955 obviously creates no new date of taking.

For a definition of the term "nationals of the United States", reference is made to Section 2(c), Title I of the International Claims Settlement Act of 1949, as amended, which provides that:

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.

As to item (1), the term "citizen of the United States" includes all persons born or naturalized in the United States, and subject to the jurisdiction thereof (U.S. Const. Amend. XIV §1). Also, a person does not become a citizen of the United States by way of naturalization until

the procedure of naturalization is fully complied with and the order divesting the person of his former nationality and making him a citizen is signed by the judge of the court having jurisdiction (Petition of Sproule, 19 F. Supp. 995 [S.D. Cal. 1937]).

As to item (2), the Commission has held that persons who, though not citizens of the United States, owe permanent allegiance to the United States are those who were born in certain outlying insular possessions of the United States or born elsewhere of parents already possessing that status and does not include an alien who resides in the United States, who is an employee of the United States Government and has sworn allegiance thereto. (See Claim of Edward Krukowski, Claim No. PO-9532, 21 FCSC Semiann. Rep. 27 [July-Dec. 31, 1964].) Neither does it include a person who in the course of applying for his United States citizenship filed a declaration of intention and a petition of naturalization and took certain oaths. (See Final Decision in the Claim of Walter Ludwig Koerber, Claim No. W-3917.)

The controlling date for claimant's citizenship is, therefore, June 28, 1955, the date he acquired United States nationality by naturalization.

In the absence of any evidence concerning a specific nationalization or confiscation action after June 28, 1955 by the Government of Yugoslavia regarding claimant's property, including his insurance policies and pension rights, the Commission reiterates its finding that his claim is not compensable under the Agreement.

For the reasons stated, it is

ORDERED that the Proposed Decision be and the same is hereby affirmed.

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

JUN 26 1969

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Freidberg*

Sidney Freidberg, Commissioner

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PROPOSED DECISION

This claim for \$38,112.00 is based upon the asserted ownership and loss of certain real estate, personal property, life insurance policies, and pension rights in Yugoslavia. Claimant, LADISLAV J. BEVC, has been a national of the United States since his naturalization on June 28, 1955.

Under Section 4(a) of the International Claims Settlement Act of 1949, as amended (64 Stat. 13 [1950], 22 U.S.C. §1623(a) [1964]), 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, [1965] 16 U.S.T. 1, T.I.A.S. No. 5750 [effective January 20, 1965].)

Claimant states that he was the owner of improved real property located at St. Jernej near Novo Mesto, Slovenia, Yugoslavia, and that this property was confiscated and transferred to the ownership of the People on October 18, 1947 by Decision No. J-304/47-5 of the District Court of Novo Mesto.

Claimant also states that he was the owner of certain furniture and household goods located at his apartment at No. 26 Erjavceva Street in Ljubljana, and that this personal property was confiscated by a decision dated December 29, 1945, No. Ksc. 1187/45-7 of the District Court in Ljubljana.

Claimant further states that he owned five (5) life insurance policies - one for 3,000 Austrian crowns and four aggregating 122,700 dinars - for which he paid the premiums until 1945 or 1946, and in one case, until maturity in 1957; that all insurance companies were nationalized; and that at maturity, no payments were made.

Claimant finally asserts that by the end of the war he had completed thirty-one years of active service with the Government of Yugoslavia as a technical and engineering consultant; that he always opposed the communist movement and during the war remained loyal to the Yugoslav Government in Exile; that he was, therefore, unable to continue to work for the postwar Government of Yugoslavia inasmuch as he was accused of being a war criminal and compelled to leave Yugoslavia. Claimant submits that he is entitled

to recover all his contributions to the Yugoslav Government pension fund which he made during his thirty-one years in service, compounded at 5% interest per year.

The Commission has given consideration to claimant's statements and to the evidence submitted in support of the claim and finds that claimant's personal property consisting of furniture and household goods was confiscated on December 29, 1945 by an action of the District Court of Ljubljana, No. Ksc. 1187/45-7, and that his real property consisting of improved real property with appurtenances in St. Jernej was confiscated pursuant to a decree of the District Court of Novo Mesto of October 18, 1947, No. Y-304/47-5.

The Commission, therefore, concludes that the portions of the claim for furniture, household goods, and the real property in St. Jernej are not compensable because they arose prior to July 19, 1948, the date specified in the Yugoslav Claims Agreement of 1964.

It is noted that claimant was not a national of the United States at the time of the confiscation. The Commission has held that under recognized principles of international law and Article II of the Agreement of 1964, a claim is not compensable if the property which is the subject of the claim was not owned by a national of the United States on the date of its nationalization or other taking. (See Claim of Eugenia D. Stupnikov, Claim No. Y2-0071, 1967 FCSC ANN. REP. 79.) The furniture, household goods and real property to which reference was made heretofore were not owned by a United States national at the time of the taking, since claimant did not become a citizen of the United States until June 28, 1955.

With respect to the loss of the proceeds from the life insurance policies, claimant states that his wife, who remained in Yugoslavia, took loans from the insurance companies based upon the remainder of the equity

in the policies, and that she paid premiums out of these loans. The record does not show that the proceeds of the policies were taken by Yugoslavia.

On the contrary, the Commission's records disclose that on September 21, 1946 the Yugoslav Ministry of Finance issued Regulations for the Settlement and Conversion of Obligations Arising from Prewar Life Insurance Policies (Sl. List [Yugoslavia], No. 79, Item 561, October 1, 1946).

Articles 3 and 4 of the Regulations provided for the recomputation of the policies expressed in prewar currency, based upon the payment of premiums prior to the war in dinars and during the war in occupation currency. As a result, in most cases, the amounts of the insurance policies were reduced, but the insured persons were entitled to increase the amount of the premiums, if they so wished, in order to increase the insured amount in the postwar currency. If the insured person did not survive the war, the regulations provided for the payment of the insured amount at a sliding scale and, where the amount to be paid was larger than 25,000 dinars, payment could be tendered in monthly installments. On December 5, 1946, all private insurance companies were nationalized (Sl. List [Yugoslavia], No. 98, Item 677, December 6, 1946). The affairs of the private insurance companies were transferred to a State insurance institute which continued the business and carried out the obligations of the former private insurance companies.

The Commission finds that the conversion of the insurance policies expressed in prewar dinars into policies expressed in postwar dinars, and the subsequent reduction of the face amount of the policies did not constitute a nationalization or taking of claimant's property and such action does not create a claim compensable under international law. (See Claim of Anton and Frances Tabar, Claim No. Y-580, Decision No. 55, published in "Settlement of Claims by the Foreign Claims Settlement Commission of the United States", page 35 (1954), where a similar revaluation of bank accounts

on a sliding scale was held not to constitute a taking of property within the meaning of the Yugoslav Claims Agreement of 1948; and the Claim of Petar B. Martin, Claim No. Y2-1180, where the Commission held that claims based on revalued bank accounts are not compensable under the Yugoslav Claims Agreement of 1964.) The Commission further finds that the nationalization of the private insurance companies did not affect the rights of the owners of the life insurance policies since a state insurance agency took over the obligations of the insurance companies, as set forth in the Regulations of September 21, 1946.

Even assuming that the Commission should consider that claims arose in favor of the claimant by the actions of the Yugoslav Government of September 21, 1946 or of December 5, 1946, such claims would not be compensable under the Agreement of 1964 which excludes claims originating prior to July 19, 1948. Moreover, as stated above, claimant at that time was not a national of the United States, which fact excludes him from the benefits of the 1964 Agreement.

With respect to the claim for the recovery of contributions to the Government pension fund, the Commission finds that claimant has failed to establish that he is entitled to such recovery. Claimant has submitted no evidence to show that any of his pension rights, including the alleged right to recover the contributions, were confiscated or taken by Yugoslavia. The Commission's records indicate that in the absence of such confiscation, claimant may still be entitled to payment of retirement benefits in view of his government service of thirty-one years and his present age, inasmuch as present Yugoslav law, and specifically Article 110 of the Law on Retirement Insurance, published in the Yugoslav Official Gazette, No. 51 of December 30, 1964, expressly provide that foreign citizens residing permanently abroad are entitled to retirement benefits, if the foreign country of their residence recognizes the same right for Yugoslav citizens. The Commission

is aware that the United States does recognize such rights of citizens and other residents of Yugoslavia, and it must be assumed that the recognition is reciprocal. The Commission, therefore, concludes that under the Agreement claimant is not entitled to compensation for the asserted loss of his pension rights in these proceedings.

In view of the foregoing, the claim is denied in its entirety.

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

AUG 21 1968

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Feidberg*

Sidney Feidberg, 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].)