

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

IN THE MATTER OF THE CLAIM OF

SPASIA MOTEFF

Claim No. Y2- 1618

Decision No. Y2- 1143

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

Counsel for claimant:

George A. Chuparkoff, Esq.

PROPOSED DECISION

This claim, in an unstated amount, is based upon the asserted ownership and loss of certain real property in Prilep, District of Bitola, Yugoslavia. Claimant, SPASIA MOTEFF, has been a national of the United States since her naturalization on November 25, 1941.

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).)

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 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 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.

Claimant asserts that the property on which this claim is based was nationalized or otherwise taken on a date unknown to her. By Commission letters dated February 13 and May 28, 1968, claimant was advised of the scope of the Agreement. Also, suggestions were made as to the type of evidence necessary to establish a compensable claim and the sources from which it may be obtained. In the letter of latter date claimant was informed that unless evidence were submitted within 45 days it would become necessary for the Commission to determine the claim on the basis of the record then before it. Pursuant to claimant's request the time

period for the submission of supporting evidence had been extended until August 31, 1968. However, no evidence has been submitted to date.

In view of the foregoing, the Commission finds that claimant has failed to establish that she owned property which was nationalized or otherwise taken by the Government of Yugoslavia between July 19, 1948, and January 20, 1965, the period covered by the Agreement. Therefore, this claim must be and it is, accordingly, 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

OCT 30 1968

Leonard v. B. A. Allen

Leonard v. B. Allen, 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).)