

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

IN THE MATTER OF THE CLAIM OF

KARLA I. KLEMPAY

Claim No. Y2- 1775

Decision No. Y2-  
0922

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

Counsel for claimant:

Rotraud M. Perry

PROPOSED DECISION

This claim, in the amount of \$237,000.00, is based upon the asserted ownership and loss of certain real and personal property, and bank accounts located in Pancevo, Yugoslavia. Claimant, KARLA I. KLEMPAY, states that she has been a national of the United States since her naturalization on August 17, 1956.

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 this Agreement.

The record comprising this claim includes extracts of libers nos. 2617, 4166, and 2052 of the land register of the cadastral district of Pancevo. On the basis of this evidence, the Commission finds that claimant owned a one-half interest in the real property listed in the aforementioned liber no. 2617 and identified as parcels nos 532/533; that the property listed in liber no. 4166 and identified as parcel number 387/388 was solely owned by claimant; and that the property listed in liber no. 2052 and identified as parcel 2708 and 2709 was owned by claimant to the extent of one-fifth according to a decree of inheritance submitted by claimant.

The Commission further finds that the property listed in libers no. 4166 was confiscated on October 18, 1945 by the People's Committee for Confiscation of Pancevo, Decision no. 1714/45; that the property listed in liber no. 2617 was confiscated on September 25, 1945 by the People's Committee for Confiscation of Pancevo Decision no. 1008/45; and that the property listed in liber no. 2052 of Pancevo, was taken in 1945 by decision no. 1265/1945. The Commission also finds that the aforesaid property was confiscated pursuant to the Law Regarding the Confiscation of Property and Execution of Confiscation (Sl. List (Yugoslavia), No. 40, Item No. 359, June 12, 1945) in the implementation of the Enemy Property Law of November 21, 1944, which became effective on February 6, 1945 (Sl. List (Yugoslavia), No. 2 Item No. 25, February 6, 1945).

In view of the foregoing, the Commission finds that claimant's rights and interests in and with respect to the real property which is the subject of this claim was not owned by a national of the United States at the time of nationalization or other taking and that the claim arose prior to the dates specified in the 1964 Agreement. Therefore, this claim is not a claim of a national of the United States as defined by Articles I and II of the Yugoslav Claims Agreement of November 5, 1964 and it is, accordingly, denied.

A portion of this claim in the amount of \$50,000 is asserted for the loss of personal property. In support of her claim for this loss, claimant has submitted several photographs asserted to be scenes of rooms in which the personal property was located.

In this regard, 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).)

On the basis of the entire record the Commission finds that claimant has failed to establish that any personal property owned by her was nationalized or otherwise taken by the Government of Yugoslavia between the date of claimant's naturalization and January 20, 1965, the effective date of the Agreement. Accordingly, this portion of the claim is also denied.

A further portion of this claim is based on savings accounts, valued by claimant in the amount of \$5000.00. Claimant has submitted bank-book no.52, Pancevo Volksbank showing a balance of 146,103 dinars on September 4, 1944, and bank book no. 9; Pancevo Volksbank, showing a bank balance of 6000 dinars in 1946.

In reply to inquiries by the Commission concerning the status of bank accounts in Yugoslavia, the Government of Yugoslavia has stated that:

"Claims of American citizens based on checking and savings accounts with banks and savings institutions and with the Postal Savings Bank were not subjected to any restrictions except by measures originating from revaluation of currency and currency regulations. These claim are free and creditors can dispose of the balances in accordance with the Yugoslav currency regulations.

Jurisdiction over this matter is with the National Bank of Yugoslavia, its main office in Belgrade, and its offices in the capitals of various republics. Claimants may request information for the withdrawal of their accounts from these bank offices."

Information before the Commission discloses that on November 13, 1945 the Government of Yugoslavia, by the Law on Settlement of Prewar Obligations (Sl. List (Yugoslavia), No. 88 Item No. 841, November 13, 1945), provided for the settlement of those obligations which were incurred prior to April 18, 1941. Article I of said Law provided that unsettled obligations, expressed in prewar dinars, shall be settled at the rate of 10 prewar (old) dinars to one postwar (new) dinar. Article 2 made certain favorable exceptions in the case of savings accounts. Deposits not exceeding 2,000 dinars were settled at the rate of 2 old dinars for 1 new dinar; deposits for 2,000 to 5,000 dinars were settled at the rate of 5 old dinars for 1 new dinar; and deposits from 5,000 but not exceeding 20,000 old dinars were settled at the rate of 7 old dinars for 1 new dinar.

Claims based upon bank accounts in Yugoslavia were considered by the Commission in the administration of the Yugoslav Claims Agreement of 1948. (Agreement with the Federal People's Republic of Yugoslavia Regarding Pecuniary Claims of the United States and its Nationals, July 19, 1948, 62 Stat. 2658 (1948), T.I.A.S. No. 1803). This program was also administered under Title I of the International Claims Settlement Act of 1949, as amended.

In the leading decision under the 1948 Agreement, the Commission decided, among other things, that Yugoslavia violated no principle of international law in providing, as part of the re-establishment of its monetary system, for the payment of obligations incurred prior to military occupation at a rate of ten old dinars to one new dinar; and that the operations of Yugoslav Law on the Settlement of Prewar Obligations did not constitute a "nationalization" or "taking" of property within the meaning of the Yugoslav Claims Agreement of 1948. It was also held that the nationalization of the banks in Yugoslavia pursuant to the Law Regarding the Nationalization of Private Economic Enterprises of December 5, 1946 (Sl List (Yugoslavia), No. 98, Item No. 677, December 5, 1946) did not constitute a taking of the bank deposits, inasmuch as the deposits were transferred to the National Bank

of Yugoslavia where they were held under the same terms as the original deposits were held prior to the nationalization; that the exchange control regulations imposed by the Yugoslav Government after the war preventing the transfer of the bank deposits from Yugoslavia to the United States in dollar currency, were not discriminatory and did not amount to "nationalization" or "taking" of property or of rights in and with respect to property. The records established that Yugoslavia recognized the right of the creditors to collect their bank deposits; and that these deposits were not taken by the Government of Yugoslavia. (See Claim of Anton Tabor, et al., Docket No. Y-580.)

The evidence in this claim does not indicate that any restrictive measures were applied to the subject savings accounts between claimant's date of nationalization and January 20, 1965, which would constitute a nationalization or other taking by the Government of Yugoslavia.

The Commission is aware that claimant may have suffered a loss due to the currency devaluation. That loss, however, resulted from the depreciation of the dinar due to the war and postwar conditions prevailing in Yugoslavia and it is not one which is compensable under the terms of the Yugoslav Claims Agreement of 1964.

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

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

**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).)