

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

IN THE MATTER OF THE CLAIM OF

ESTATE OF FORTUNATO LUSIC RANKO, DECEASED

Claim No. Y2-1790

Decision No. Y2- 184

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 December 20, 1967;  
Oral Hearing requested and scheduled for Thursday September 5, 1968 at  
10:00 a.m. cancelled at request of claimant.

Hearing on the Record held on October 3, 1968.

FINAL DECISION

By Proposed Decision issued on December 20, 1967, this claim, in the amount of \$75,000.00, was denied on the ground that it was not one of a national of the United States as defined by Articles I and II of the Yugoslav Claims Agreement of 1964 for the reason that on the date of the Agreement the beneficial interest in the claim was owned by nonnationals of the United States.

The decedent predecessor in interest was a national of the United States from his date of naturalization on November 21, 1918 until his death in October 1961. The beneficiaries of the decedent's estate are Yugoslav and Italian nationals.

Claimant objected to the Proposed Decision asserting that the Commission failed to recognize the will of the decedent, an American citizen, and ignored the legality of his will, and rights, duties and ownership which it imposes upon the heirs. Further, claimant asserts that the American-Yugoslav Agreement considers "nationals of the United States" and it can not be expected of an International Agreement to consider the eventuality of death of a subject before he is able to

complete the regularization of his properties. He adds that in this particular case the deceased had put in motion proceedings with the American Embassy in Belgrade to claim the possessions taken from him by the Yugoslavian Government. Claimant concludes that it is for the Commission to implement the wording of the Agreement in a way conforming to justice and equity as it has been directed.

Contrary to claimant's assertion, the Commission by its Proposed Decision did recognize the testamentary disposition made by the decedent in his will but the Commission found that because of the citizenship status of the beneficiaries of decedent's will, who are nonnationals of the United States, that this claim was outside the scope of the Yugoslav Claims Agreement of 1964.

As stated in the Proposed Decision, the pertinent provisions of the International Claims Settlement Act of 1949, as amended, direct the Commission to apply the following in the following order:

- (1) The provisions of the applicable Claims Agreement as provided in the subsection; and
- (2) the applicable principles of international law, justice and equity.

The Agreement is quite clear that the property subject of the claim must be owned by a national of the United States on the date of loss and on the date of the Agreement. The question in this claim is, therefore, whether the national character of a claim is determined by the nationality of the individuals holding a beneficial interest therein rather than by the nationality of the decedent or the record holder of the claim, such as the executor, administrator or trustee.

In determining a claim with a similar issue under the prior Yugoslav Claims Agreement of 1948, the Commission held that a claim made by a national of Yugoslavia who was an heir of a United States national is not a claim which was owned by a national of the United States up to the date of the Agreement within the meaning of Articles I(a) and II of the 1948 Agreement for the reason that the claim lost its American

nationality upon the death of the decedent United States national and thereafter was impressed with Yugoslav nationality. (See Claim of the Estate of Thomas Bogovic, Docket No. Y-1757, Settlement of Claims by the Foreign Claims Commission of United States and Its Predecessors from September 14, 1949 to March 31, 1955, pp. 55, 56, 57 and 58.)

In its discussion of International Law principles which pertain to this issue, the Commission stated:

. . . although the national character will attach to a claim belonging to a citizen of a state at its inception, the claim ordinarily must continue to be national at the time of its presentation, by weight of authority (Borchard, Diplomatic Protection of Citizens Abroad, p. 666), and there is general agreement that it have a continuity of nationality until it is filed (Feller, The Mexican Claims Commission, p. 96) . . .

. . . As a rule, the Government of the United States refuses to espouse claims which have not continued to be impressed with American nationality from the date the claim arose to the date of its settlement (Hackworth, Digest of International Law, vol. 5, p. 804). Thus, in its form, "Application for the support of claims against foreign governments," issued by the Department of State on May 19, 1919, and revised on October 1, 1924, the following language appears in paragraph 6:

Moreover, the Government of the United States, as a rule, declines to support claims that have not belonged to claimants of one of these classes [those who have American nationality or who are otherwise entitled to American protection] from the date the claim arose to the date of its settlement. Quoted in Eagleton, The Responsibility of States in International Law, page 269.

The Commission has consistently adhered to and applied the principle declared in the Bogovic claim, supra. (See Claim of National Bank of Westchester White Plains, as administrator with the Will Annexed, Estate of Meta Blum, Deceased, Claim No. CZ-1872, 17 FCSC Semiann. Rep. 251 [July-Dec. 31, 1962]; Claim of Richard O. Graw, Executor of the Estate of Oscar Meyer, Deceased; Claim No. PO-7595, 23 FCSC Semiann. Rep. 52 [July-Dec. 31, 1965]; and Claim of Milosava Glomazeck, Y2-0828.

Full consideration having been given to the entire record in this claim, including objections of claimant, it is

ORDERED that the Proposed Decision be, and it is hereby affirmed.

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

NOV 27 1968

*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, in the amount of \$75,000.00, is based upon the asserted ownership and loss of bonds, a savings account and shares in certain corporations all of which was located in Yugoslavia. It is asserted that the decedent, FORTUNATO LUSIC RANKO, was a national of the United States from his date of naturalization on November 21, 1918 until his death in October 1961.

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 have occurred between July 19, 1948 and the date of the Agreement, and also unless the claim was owned by a national of the United States on the date of the Agreement.

The Commission has held that the national character of a claim is determined by the nationality of the individuals holding a beneficial interest therein rather than by the nationality of the nominal or record holder of the claim. (See the Claim of National Bank of Westchester White Plains, as administrator with the Will Annexed, Estate of Meta Blum, Deceased, Claim No. CZ-1872 - Decision No. CZ-3312, 17 FCSC Semiann. Rep. 251 /July-Dec. 31, 1962/ and the Claim of Richard O. Graw, Executor of the Estate of Oscar Meyer, Deceased, Claim No. PO-7595, Decision No. PO-8583, 23 FCSC Semiann. Rep. 52 /July-Dec. 31, 1965/.

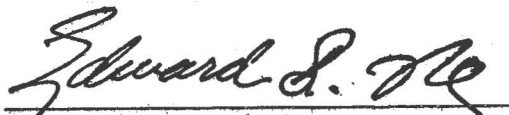
Evidence of record in this claim includes a copy of a Inheritance Decree of the District Court in Sibenik dated May 16, 1962 which implements that portion of the testator's will which bequeaths interests in the personal property upon which this claim is based. Pursuant to the will and under the decree, Maria Vianello was nominated and authorized to execute the above-mentioned portion of the will.

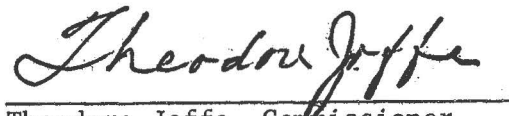
Accordingly, Maria Vianello filed this claim in his representative capacity under the will. From Maria Vianello's own statement it is clear that he and the other beneficiaries named in the subject will are and have been nationals of Yugoslavia and Italy and not nationals of the United States.

In view of the foregoing, the Commission finds that the beneficial interest in this claim was owned by non-nationals of the United States on the date of the Yugoslav Claims Agreement of 1964 and therefore, it is not a claim of a national of the United States as defined by Articles I and II of the Agreement and it is, accordingly, denied.

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

**20 DEC 1967**

  
Edward D. Re, Chairman

  
Theodore Jaffe, Commissioner

  
LaVern R. Dilweg, 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).)