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Zangrilli Case—Decision No. 149

21 December 1956

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Inasmuch as Mrs. Paolozzi, for the foregoing reasons, cannot be considered to be dominantly a United Nations national within the meaning of Article 78 of the Treaty of Peace, the Commission is of the opinion that the Government of the United States of America, acting on behalf of Mrs. Paolozzi, is not entitled to present a claim against the Italian Government, and therefore

DECIDES:

1. The Petition of the Agent of the United States of America is rejected.
2. This Decision is final and binding.

Rome, December 21, 1956.

*The Representative of the
United States of America*

Alexander J. MATTURRI

*The Representative of the
Italian Republic*

Antonio SORRENTINO

ZANGRILLI CASE—DECISION No. 149 OF
21 DECEMBER 1956¹

Compensation under Article 78 of Peace Treaty—Nationality of claimant—Dual nationality—Criteria laid down by Conciliation Commission in order to establish dominant nationality—Reference to Decision No. 55 rendered in] Mergé Case—Claimant's United States nationality deemed as prevalent.

Indemnisation au titre de l'article 78 du Traité de Paix — Nationalité du réclamant — Double nationalité — Critères admis par la Commission de Conciliation pour établir la nationalité dominante — Référence à la Décision n° 55 rendue dans l'affaire Mergé — Prévalence de la nationalité américaine du réclamant.

The Italian-United States Conciliation Commission, established by the Government of the United States of America and the Government of the Italian Republic pursuant to Article 83 of the Treaty of Peace and composed of Messrs. Alexander J. Maturri, Representative of the United States of America and Antonio Sorrentino, Representative of the Italian Republic, finds it has jurisdiction to adjudicate the rights and obligations of the parties to this dispute.

The dispute between the two Governments arose out of a claim under

¹ *Collection of decisions*, vol. IV, case No. 228.

Article 78 of the Treaty of Peace and the Agreements supplement thereto or interpretative thereof, which was submitted on the 25th day of August, 1952, to the Ministry of the Treasury by Francesco Saverio Zangrilli through the Embassy of the United States of America.

The Italian Ministry of the Treasury, by letter dated June 18, 1955, informed the Embassy that the claim had been rejected on the ground that the claimant, naturalized as an American citizen in 1900, had reacquired his original Italian nationality according to the Law of June 13, 1912, No. 555, following his uninterrupted residence in Italy from 1915 to 1929.

On December 28, 1955, the American Embassy wrote to the Italian Ministry of the Treasury, requesting them to reconsider the claim because of the following additional facts:

The claimant, born on April 9, 1874, and naturalized as an American citizen on October 29, 1900, resided in the United States until 1915; he returned to Italy in 1915 and remained there until 1929; in May of 1929 he returned to the United States and resided there until 1936; he visited Italy between the autumn of 1936 and July 1937 and then went back to the United States and did not return to Italy again until September 1946. He has resided in Italy since September 1946 only because he has been unable to return to the United States for reasons of old age and ill health. He has used only American passports in his travels. He has maintained his American nationality continuously since his naturalization on October 9, 1900, and has otherwise conducted himself solely as American national since then. Throughout the period of the war and at the time the damage occurred he resided in the United States.

The Italian Ministry of Foreign Affairs, by letter dated February 25, 1956, informed the Agent of the United States that the rejection of the claim had been reconfirmed. Thereupon, the Agent of the United States Government filed a Petition stating that the claimant's predominant nationality was American on the relevant dates of the Treaty of Peace and that the Ministry of the Treasury had erroneously rejected his claim in the light of the Decisions of the Italian-United States Conciliation Commission in the *Mergé Case* (*The United States of America ex rel. Florence Strunsky Mergé vs. The Italian Republic*, Case No. 3, Decision No. 55¹).

The Agent of the Italian Government, having deposited his Answer admitting that the claimant is in possession of both Italian and United States nationality, argued that since the facts in this case do not come under Section 7 (b) of the *Mergé* Decision, which states:

The United States nationality shall also be prevalent in cases involving Italians who, after having acquired United States nationality, have reacquired their nationality of origin as a matter of law as a result of having sojourned in Italy for more than two years, without the intention of retransferring their residence permanently to Italy.

because the claimant transferred his residence permanently to Italy, the necessary prerequisites of dominant American nationality are lacking and therefore the claimant is to be considered of dominant Italian nationality.

CONSIDERATIONS OF LAW:

Having analysed the facts of the case, the Commission considers that the American nationality of Francesco Saverio Zangrilli should be deemed as prevalent.

¹ *Supra*, p. 236.

Notwithstanding the fact that he resided in Italy from 1915 to 1929, the Commission, on the basis of the elements acquired during the proceedings, considers that this sojourn, although a lengthy one, was not accompanied by the intention to reside permanently in this country. Therefore, there is here involved the hypothesis provided for by point 7 (b) of the above-cited Decision in Case No. 3, namely, an Italian national who reacquired his nationality of origin as a matter of law merely as a result of having sojourned in Italy for more than two years, without the intention of re-transferring his residence permanently to Italy.

The fact that he now resides in Italy is irrelevant for the purposes of the subject case because it involves events which occurred subsequent to those which the Commission is called upon to consider.

The Commission, having examined the appraisals of the damages prepared by the two Governments, acting in the spirit of conciliation,

DECIDES:

1. That the claimant, Francesco Saverio Zangrilli, is entitled to receive from the Italian Government under the provisions of Article 78 of the Treaty of Peace, the sum of 900,000 lire plus 100,000 lire for the expenses in establishing this claim, thus making a total of 1,000,000 lire net, without any reduction of one-third which may be applicable under said Article 78 as amended by the Exchange of Notes of February 24, 1949, between the Governments of the United States of America and of the Italian Republic.

2. The amount set forth in the foregoing paragraph shall be paid within sixty (60) days from the date in which a request for payment is presented to the Italian Government by the Government of the United States of America.

This Decision is final and binding and its execution is incumbent upon the Italian Government.

Rome, December 21, 1956.

*The Representative of the
United States of America*

Alexander J. MATTURRI

*The Representative of the
Italian Republic*

Antonio SORRENTINO

SONNINO CASE—DECISION No. 155 OF
27 NOVEMBER 1956¹

Claim under Article 78 of the Treaty of Peace—Exemption from special progressive tax on property—Active right to claim—Applicability of second part of paragraph 9 (a) of the aforementioned Article—Interpretation of treaties—Treatment as enemy—Meaning and scope of the expression “laws in force in Italy during the war”—Confiscation of property—Failure to pay indemnity for expropriated property—State responsibility—Acts and omissions of State organs and officials.

¹ *Collection of decisions*, vol. IV, case No. 100.