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Puccini Case—Decision No. 173

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PUCCINI CASE—DECISION No. 173 OF
17 MAY 1957¹

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.

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

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. Matturri, 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 Article 78 of the Treaty of Peace and the Agreements supplemental thereto or interpretative thereof, which was submitted on the 21st day of June, 1949, to the Italian Ministry of the Treasury by Virginia Mattei Puccini, through the Embassy of the United States of America at Rome.

The Italian Ministry of the Treasury, by letter dated March 22, 1951, informed the Embassy that the claim had been rejected on the grounds that the claimant, an American national by marriage, re-acquired her original Italian nationality according to the Italian Law of June 13, 1912, No. 555, following her return to Italy in 1938 and sojourn here until 1946.

Subsequently, on December 28, 1955, the American Embassy requested the Italian Ministry of the Treasury to reconsider the claim and further documented the following facts:

The claimant was born at Arliano, Lucca, on December 15, 1886. In 1914 she went to the United States and on January 6, 1915 married Joseph Mattei, an American born national, thus acquiring her American nationality. After her husband's death on July 18, 1937, Mrs. Mattei returned to Italy to visit her sister and old mother, travelling on an American passport which was later confiscated by the Italian police. Since 1938 she had been registered as an American at the Police Headquarters of Lucca. During the war she hid in the country to avoid arrest and internment in a concentration camp. In 1946 she sold her property in Italy and returned to the United States. Since the death of her husband Mrs. Mattei has been supported and maintained by

¹ *Collection of decisions*, vol. IV, case No. 267.

the income and assets of her deceased husband which have been and still are invested in the United States.

The Italian Ministry of the Treasury by letter dated July 11, 1956 informed the Embassy that the rejection of the claim had been confirmed on the grounds that all the evidence in the file, relative to Mrs. Mattei's return to Italy in 1938, makes one believe that she intended to stay permanently in Italy. Thereupon, the Agent of the United States Government filed a Petition stating that the claimant's nationality was predominantly American on the relevant dates of the Treaty of Peace and that the Italian Government, in the light of the Decision of the Italian-United States Conciliation Commission in the Mergé Case (Decision No. 55¹) had erroneously rejected the claim.

The Agent of the Italian Government argues, in his Answer, that the claimant permanently retransferred her residence to Italy. Therefore, she does not come under the rule set down in 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 by naturalization and having thus lost Italian nationality, have re-acquired 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.

she must be considered to be dominantly an Italian national.

CONSIDERATIONS OF LAW:

The Commission finds, in the first place, that the claimant is in possession of both, American and Italian nationality. Therefore, this case must be considered in the light of the Mergé Case which has already been decided by this Commission and it was set down as one of the guiding principles that United States nationality shall prevail in cases involving Italians who, after having acquired United States nationality by naturalization, and having thus lost Italian nationality, have re-acquired 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.

In examining the facts of the case at bar which disclose that the claimant travelled on an American passport, that she was registered as an American with the Italian police, and that all her income and assets were always in the United States, the Commission must conclude that the claimant's sojourn of more than two years in Italy was not coupled with the intention of permanently retransferring her residence to Italy. As a matter of fact, when war broke out at the completion of the two-year period, Mrs. Mattei although she had an American passport, was confronted with difficulties in returning to the United States. At the cessation of hostilities she immediately returned to the United States (in 1946) where she presently resides. Therefore, the Commission considers that she is dominantly a United States national and as such is entitled to receive compensation for damages as provided by Article 78 of the Treaty of Peace. As regards the amount thereof, the Commission, having examined the appraisals as prepared by the Agents of the two Governments, acting in the spirit of conciliation,

DECIDES:

1. The claimant, Mrs. Virginia Mattei Puccini, is entitled to receive from the Government of the Italian Republic under the provisions of Article 78,

¹ *Supra*, p. 236.

the sum of one million and five hundred thousand (1,500,000) lire, in full settlement of her claim, without any reduction of one-third as may be applicable under said Article 78 as amended by the Exchange of Notes of February 24, 1949 between the Government of the United States of America and the Italian Government.

2. The amount stated in the foregoing paragraph shall be paid within sixty (60) days from the date on 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 on the Government of the Italian Republic.

Rome, May 17, 1957.

*The Representative of the
United States of America*

Alexander J. MATTURRI

*The Representative of the
Italian Republic*

Antonio SORRENTINO

D'ANNOLFO CASE—DECISION No. 174 OF
25 JUNE 1957¹

Claim for compensation under Article 78 of Peace Treaty—Evidence—Proof of ownership—Burden of—Value of affidavits by claimants as to ownership—Reference to Decision No. 11 rendered in Amabile Case.

Demande en indemnisation au titre de l'article 78 du Traité de Paix — Preuve — Fardeau de la preuve quant à la propriété du bien — Affidavits — Admissibilité en preuve — Référence à la décision n° 11 rendue dans l'affaire Amabile.

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 183 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 Article 78 of the Treaty of Peace and the Agreements supplemental thereto or interpretative thereof, which was submitted on the 18th day of December

¹ *Collection of decisions*, vol. IV, case No. 185.