

WEISS CASE—DECISION No. 20
OF 25 NOVEMBER 1953 ¹

The Italian-United States Conciliation Commission established by the Government of the United States of America and the Government of Italy pursuant to Article 83 of the Treaty of Peace and composed of Antonio Sorrentino, Representative of the Italian Republic, and Alexander J. Matturri, Representative of the United States of America.

¹ *Collection of decisions*, vol. II, case No. 27.

I. On February 8, 1952 the Agents of the United States, Lionel M. Summers and Carlos J. Warner, submitted to this Commission a Petition on behalf of Abraham and Perl Weiss requesting the Commission to decide that the failure on the part of the Italian authorities to act favourably on the claim of Abraham and Perl Weiss constitutes in effect a denial of their claim, to decide that the claimants are entitled to compensation under Article 78 of the Treaty of Peace, and to grant interest of 5% per annum from November 5, 1948 on the amount of compensation.

In support of the Petition the Agents of the United States set forth the following facts:

Since January 7, 1946, the claimants have been nationals of the United States of America. Prior to that time and on September 3, 1943, the claimants were nationals of Poland. When emigrating from Poland in 1940 the claimants shipped eight parcels containing books, household effects and personal clothing to Trieste for eventual trans-shipment to the United States. The claimants insured the eight parcels for the value of 20,000 zlotys against loss during transit between Warsaw and Trieste.

The property was sent from Trieste to Genoa and then on to Milan in 1940 and, on October 24, 1944 was requisitioned by Italian authorities and was thus lost to the claimants.

On November 5, 1948 the Embassy of the United States of America in Rome submitted to the Italian Government on behalf of the claimants a claim based on Article 78 of the Treaty of Peace and the Agreements supplemental thereto or interpretative thereof. On June 4, 1949 and again on August 9, 1949, the Italian Government rejected the claim on the grounds that the claimants did not possess the nationality of the United States as of September 3, 1943, or as of the date the damage occurred. The Embassy expressed its disagreement with the viewpoint of the Italian authorities. On August 16, 1950, the Italian authorities requested proof of the Polish nationality of the claimants as of September 3, 1943.

On January 16, 1951, the Embassy submitted certain documents showing that the claimants were nationals of Poland prior to acquiring the nationality of the United States.

As the Italian authorities had taken no action on the claim for more than a year thereafter, the Agents of the United States submitted a Petition based on this claim to the Conciliation Commission, maintaining that the silence of the Italian authorities was an implicit denial of the right of the claimants to compensation and that a dispute had therefore arisen between the two Governments.

II. On April 16, 1952, the Agent of the Italian Republic, Stefano Varvesi, submitted the Answer, denying the existence of a dispute and declaring that the Italian authorities were at that time conducting an investigation of the existence and amount of the property subject of the claim.

After several extensions of time, the Agent of the Italian Republic submitted a second Answer on February 2, 1953, in which he set forth the more recent opinion of the Italian Administrative authorities that the claimants are United Nations nationals and are entitled to compensation because the property was destroyed by an act of war in April 1945 and he set forth also the amount of compensation considered sufficient by the administrative authorities;

III. On February 6, 1953, the Agent of the United States informed the Commission that he found unacceptable the evaluation of the damages made by the Italian administrative authorities;

On March 24, 1953, the Agent of the Italian Republic submitted the report of the appraisal conducted by the Italian administrative authorities;

On June 18, 1953, the Agent of the United States waived the request contained in the Petition for interest on the amount of compensation;

The Italian-United States Conciliation Commission,

Whereas the Italian Government has abandoned its original defence, according to which the right of the claimants to receive compensation was denied on the grounds that they were not nationals of the United States on September 3, 1943 or on the date on which the damage occurred, since it appeared that, prior to acquiring the nationality of the United States, the claimants were in possession of the nationality of another of the United Nations (Poland);

Whereas the Italian Government now recognizes that compensation is due to the Claimants under Article 78, so that the only question remaining to be settled by the Conciliation Commission is the amount of compensation;

Having examined the documents in the record;

Having noted particularly the insurance policy dated March 28, 1940, in the amount of 20,000 zlotys, equal to \$4,000 (1940 values) as well as the inventory of the property attached thereto;

Having seen the appraisal made by the Italian administrative authorities on the basis of the inventory prepared on January 18, 1945 by the recipient of the property following the requisition on July 6, 1944;

Whereas said appraisal does not take into account all of the property lost by the claimants (e.g., the books);

Whereas under Article 78 of the Treaty of Peace the Italian Government is obligated to compensate the claimants to the extent of two-thirds of the sum necessary, at the date of payment, to purchase similar property or to make good the loss suffered;

Whereas the present value of the property which was lost may be calculated to be 2,550,000 lire;

Considering the expenses incurred in Italy in the establishment of the claim;

Acting in the spirit of conciliation.

DECIDES:

1. The claimants, Abraham and Perl Weiss, are entitled to receive from the Government of the Italian Republic the total sum of 1,900,000 lire, including the expenses of preparation of the claim, in full settlement of their claim under Article 78 of the Treaty of Peace with Italy, such sum to be paid within thirty (30) days from the date on which a request for payment is presented by the Government of the United States of America to the Government of the Italian Republic.

Rome, 25 November 1953.

*The Representative of the
United States of America*

Alexander J. MATTURRI

*The Representative of the
Italian Republic*

ANTONIO SORRENTINO