

INTERNATIONAL CLAIMS COMMISSION OF THE UNITED STATES  
DEPARTMENT OF STATE  
Washington, D. C.

In the Matter of the Claim of

MARY NARTNICK,  
3625 W. Cermak Road,  
Chicago 23, Illinois.

Docket No. Y-1550

Decision No. 803

Under the Yugoslav Claims Agreement  
of 1948 and the International Claims  
Settlement Act of 1949

Counsel for Claimant:

CLIFFORD K. RUBIN,  
77 W. Washington Street  
Chicago 2, Illinois.

PROPOSED DECISION OF THE COMMISSION

This is a claim for \$2,979 by Mary Nartnick, a naturalized citizen of the United States since October 3, 1923 and is for the taking by the Government of Yugoslavia of two parcels of land and farm buildings at Borovnica, Yugoslavia.

The material facts are not in dispute. Pursuant to condemnation proceedings conducted by the District Expropriation Commission in Ljubljana for the acquisition of a right of way for the construction of a railway line, the Commission, on December 12, 1947, awarded 148,950 dinars to Marija Nartnick, claimant, through her representative, Ciril Kiferle, for all of the land, buildings, and damage thereto, involved in this claim. That amount was paid to Mr. Kiferle, acting as claimant's representative, on May 29, 1948, by the Investment Bank at Ljubljana.

Claimant's position is that (1) Ciril Kiferle was her authorized agent only for the purpose of managing the property and was not empowered to negotiate or accept a condemnation award or settlement; and (2) that, in view of restrictions existing in Yugoslavia with reference to the transfer of funds and the devaluation of the dinar, she has not received "effective payment." For these reasons, claimant asserts a claim under the Agreement of July 19, 1948, between the

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Governments of Yugoslavia and the United States.

Neither of these arguments require extended treatment. First, a copy of Mr. Kiferle's Power of Attorney from claimant, dated February 26, 1946, prior to the condemnation proceedings, has been filed. Among other powers, Mr. Kiferle is authorized thereby to "represent me in all legal and administrative matters before state and provincial authorities .... he can conclude compromises and stipulations of any kind ... he can accept money and monetary values and give receipts for full value ..... give his consent to arbitration proceedings ....authority for all kinds of deeds....and in general he is authorized to do everything he deems necessary in all legal and administrative matters to do for me....In case of dispute he is entitled to take action at the appropriate Court in Ljubljana." (Underscoring supplied) By statement of January 8, 1953, Mr. Kiferle advises that claimant, his cousin, requested that he represent her in anticipation of the condemnation proceedings and, for that purpose, sent him the described power of attorney; that claimant, upon being advised of the award, requested that the funds be sent to her in the United States, but she was advised that the transfer could not be effected; and that, upon claimant's visit to Ljubljana in 1952, her aggrievement apparently was directed only at her inability to obtain compensation in United States dollars. Mr. Kiferle also is of the opinion that the amount paid was fair and reasonable. It follows that claimant is in the position of requesting payment twice for the same property.

In view of the foregoing, and the matters of record incident to this matter, the Commission finds that the award was paid to claimant's duly authorized representative and that, upon acceptance thereof, the condemnation proceedings were fully completed and satisfied.

Claimant's reference to dinar devaluation is without merit. There is no question here as to a conversion of pre-war to post-war dinars at a ratio unfavorable to claimant. She values the property at



148,950 dinars and was paid that amount. Finally, any suggestion that the limitations upon the removal of funds from Yugoslavia to the United States gives rise to a claim under the Agreement of July 19, 1948, was treated in considerable detail in the Claim of Anton and Frances Tabar, Decision No. 55, June 3, 1952, Docket No. Y-580, and need not be repeated here. As the Commission there stated, "... the refusal or failure to permit a transfer to the United States of claimant's deposit does not amount to 'nationalization' or 'other taking' of property or of rights in and with respect to property."

For the foregoing reasons, the claim herein must be, and it hereby is, denied.

Dated at Washington, D. C. May 5, 1954.

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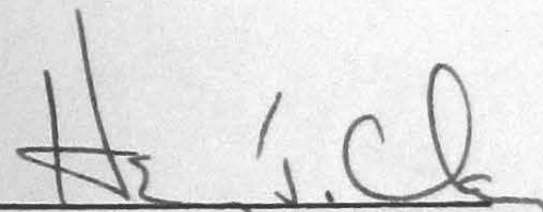
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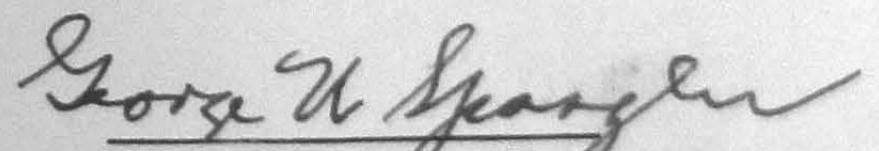
**FINAL DECISION**

Thirty days, or such extended time as may have been granted by the Commission, having elapsed since the Claimant herein was notified of the Proposed Decision of the Commission on the above Claim, and no objections thereto or notice of intention to file brief or request for hearing having been filed, or, if filed, no further evidence or other representations having been offered pursuant to the opportunity duly afforded therefor, such Proposed Decision is hereby adopted as the Commission's final decision on this Claim.

Done at Washington, D.C. June 29, 1954.



Henry J. Clay  
Acting Chairman



George W. Spangler  
Acting Commissioner