

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES

WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

CYRIL P. DURNOVO

Claim No. Y2-0080

Decision No. Y2- 228

Under the Yugoslav Claims Agreement of 1964
and Title I of the International Claims
Settlement Act of 1949, as amended

PROPOSED DECISION

This claim in the amount of \$20,000.00 is based upon the asserted ownership and loss of certain unimproved land in Gruz (Dubrovnik), Yugoslavia. Claimant, CYRIL P. DURNOVO, has been a national of the United States since his naturalization on May 15, 1956.

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

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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).)

Claimant states that his mother, Natalia A. Durnovo, was the owner of seven building lots numbered 844/1, 844/2, 844/3, 844/4, 844/5, 845/1 and 846/4, situated in the suburb of Gruz of the city of Dubrovnik; that his father and mother died during a bombing attack on February 13/14, 1945; that he inherited the property as their sole heir; and that the property was nationalized on December 31, 1959 by the Government of Yugoslavia.

In support of his claim, claimant submitted the following documents in the Serbo-Croatian language with verified English translations thereof:

(1) Extracts from the land books for the aforementioned building lots showing that they had an aggregate area of 2,798 square meters and that they were owned, prior to nationalization, by Natalia Durnovo, and a surveyor's sketch showing that lots Nos. 844/1, 844/2, 845/1 and 846/4 were located directly at the seashore in a residential section of Gruz-Dubrovnik.

(2) An affidavit duly signed and executed by the claimant in which he states that Natalia A. Durnovo died during the night from February 13 to February 14, 1945 near Dresden, Germany, leaving surviving no children or relatives other than the claimant.

(3) A death certificate issued by German authorities for Natalia von Durnovo, which includes a statement that she was married to Peter von Durnovo.

(4) An affidavit duly signed and executed by Nathalie Tence and Tamara Goncarenko, residents of Switzerland, who state that Natalia von Durnovo was married to Peter von Durnovo and that she died leaving no survivors of her family, other than the claimant herein.

(5) Original purchase contracts executed in 1939 and 1940 which show that the aforementioned seven (7) building lots were located on the peninsula of Lapad in the community of Gruz-Dubrovnik and were purchased by Natalia Durnovo for the aggregate purchase price of 378,820 dinars.

Based upon all evidence of record including the above listed documentation, the Commission finds that Natalia Durnovo was the owner of the above-described real property; that she died intestate leaving upon her death, and the death of her husband, the claimant herein as sole heir.

The Commission further finds that the subject property was nationalized by virtue of the decision of the People's Committee of Dubrovnik of September 7, 1959, No. 03-N-853/1-59, pursuant to the Law on Nationalization of Buildings for Rent and Building Lots of December 26, 1958. (Sl. List (Yugoslavia), No. 52, Item 890, December 31, 1958.)

Claimant has failed to submit any appraisal of the property but the Commission gave consideration to claimant's allegations and to the documentation presented in support of the claim which shows that the building lots are in the immediate vicinity of the resort area of the City of Dubrovnik; and that the purchase price paid for the property in 1939 and 1940 amounted to 378,820 dinars. The Commission has decided that the prewar (1938-39) values reflect a better basis for appraisal and are to be considered as the point of reference for valuation purposes; and that the prewar dinar currency shall be converted into United States currency at the rate of 44 dinars for \$1.00. (See Claim of Alexis G. Bacic, Claim No. Y2-0522, Decision No. Y2-1.)

Based upon the entire record, the Commission finds that the building lots at the time of nationalization were worth 568,230 dinars or \$12,914.00, and that claimant is entitled under the Yugoslav Claims Agreement of 1964 to an award in that amount.

Paragraph 1 of the Interpretative Minute to the Yugoslav Claims Agreement of 1964 states the following:

Rights and interests in and with respect to properties which have not been established through probate or other appropriate legal proceedings in Yugoslavia are covered and settled by this Agreement for the amount of the equity or value remaining after deduction of Yugoslav taxes which would have been payable if such probate or other legal proceedings had been concluded.

A review of the Yugoslav laws concerning the payment of inheritance taxes in the Republic of Croatia, where the property is located, discloses that under Article 3 of the Law Concerning the Implementation of Fiscal Measures of Social-Political Communities ("Narodne Novine" (Croatia), No. 6 of February 18, 1965) direct descendants (children) and spouses of deceased persons are not subjected to the payment of state taxes. While the inheritance right of the claimant has not been established through probate proceedings in Yugoslavia, the Commission finds that claimant under the present laws would not have been required to pay any inheritance tax on the property subject of this claim and no tax is, therefore deductible from the award.

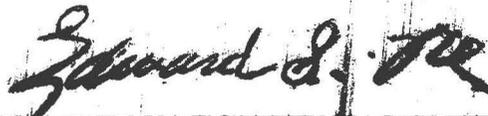
The Commission has decided that in granting awards on claims under the Yugoslav Claims Agreement of 1964, interest shall be allowed at the rate of 6% per annum from the date of loss to January 20, 1965, the date on which the Agreement entered into force and effect. (See the Claim of Alexis G. Bacic, Claim No. Y2-0522, Decision No. Y2-1.)

A W A R D

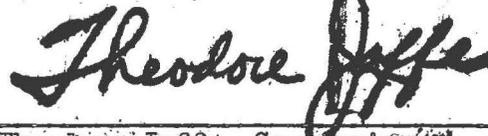
An award is hereby made to CYRIL P. DURNOVO in the amount of Twelve Thousand Nine Hundred Fourteen Dollars (\$12,914.00) with interest thereon at 6% per annum from September 7, 1959, the date of taking, to January 20, 1965, the date on which the Yugoslav Claims Agreement entered into force, in the sum of Four Thousand One Hundred Sixty Dollars and Fifty Cents (\$4,160.50).

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

JAN 24 1968



Edward D. Re, Chairman



Theodore Jaffe, 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).)