

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES

WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

MITAR PAIGE

Claim No. Y2-0143

Decision No. Y2-

12

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

Counsel for claimant:

John J. Crown, Esq.

PROPOSED DECISION

This claim for \$65,525.00 is based upon the asserted ownership of twenty-three (23) \$1,000.00 and five (5) \$500.00 7% and 8% interest bearing bonds issued by the Kingdom of Yugoslavia prior to World War II. Claimant, MITAR PAIGE, states that he has been a national of the United States since his naturalization on April 6, 1954.

Under Section 4(a) of Title I 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 stated that he purchased some of the bonds in question on December 25, 1945 from one Milorad Dimtrijevich in Munich, Germany, and some bonds during the years 1955, 1956 and 1957 from one George Skokich in Chicago, Illinois; that the claims arose on various dates from November 1941 through May 1962 when the interest and principal became due and were not paid; and that in August 1966, the Banque Nationale de Yugoslavie denied liability on the claims for the alleged failure to register them in the middle of the 1940's.

The Commission's records disclose that in 1922 the Kingdom of the Serbs, Croats and Slovenes (since 1929 the Kingdom of Yugoslavia) issued bonds expressed in United States dollars bearing 7% and 8% interest per annum, which were due in 1962; that shortly before World War II payment of interest was suspended, and that it was not resumed until 1960; that the present Government of Yugoslavia made two temporary offers dated March 30, 1960 and August 3, 1964 for the partial service of interest on the bonds; and that on March 29, 1967, the Yugoslav Government made a definitive Offer of Settlement open to acceptance by bondholders. Bondholders accepting this definitive offer would receive interest at the rate of 3% per annum on the bonds in 1968 and 1969, and at the rate of $3\frac{1}{2}\%$ per annum thereafter. Additionally, the Government of Yugoslavia offered to establish a sinking fund of 1% per annum from 1968 to 1977, both inclusive; of $1\frac{1}{2}\%$ per annum from 1978 to 1987, both inclusive; and of 2% per annum from 1988 to the new maturity date of October 1, 1998, to be

used for purchasing such bonds in the free market at prices not exceeding par or by drawings at par. Other conditions of the offer include the obligation of the Yugoslav Government to pay from 1968 to 1979 inclusive on account of the remaining arrears of interest on the 8% bonds, \$5.75 per year on each \$1,000 bond (\$2.87 for a \$500 bond); and on the 7% bonds \$5.10 per year for each \$1,000 bond (\$2.55 for a \$500 bond). (See Bulletin No. 17 of March 29, 1967 of the Foreign Bondholders Protective Council, Inc., 90 Broad Street, New York, New York 10004.)

The Commission, therefore, concludes that the temporary failure of the Government of Yugoslavia to pay the bonds or interest thereon in time does not constitute a taking of property. (See the Claim of Victor Zentner, Claim No. Y2-0054, Dec. No. Y2-2.)

The Commission further concludes, on the basis of the record herein, that the postwar requirement for the registration of the bonds imposed by the Yugoslav authorities did not constitute a nationalization or taking of the bonds subject of the present claim.

Moreover, the applicable principles of international law which the Commission must consider under Title I of the International Claims Settlement Act of 1949, as amended, and the traditional policy of the United States Government do not recognize as espousable claims against foreign governments for defaulted government bonds. Absent specific agreements or statutory provisions to the contrary, such claims are not compensable under the International Claims Settlement Act of 1949, as amended. (See Decisions No. Y-38 in Claim No. Y-362 of Owen A. Nash and No. Y-352-A in Claim No. Y-1561 of Jaro Miljus under the Yugoslav Claims Agreement of 1948, Settlement of Claims by the Foreign Claims Settlement Commission, pp. 36 et seq. (1949-1955). See also Decision No. PO-1 in the Claim of Ignatius Pietrzak, Claim No. PO-1004 under the Polish Claims Agreement of 1960, 14 FCSC Semiann. Rep. 196 (Jan.-June 1961).) The view in these

decisions is that a loan contract between a state and a foreign bondholder is not an international contract nor controlled by international law. Bondholders who purchase such obligations do so upon their own responsibility and at their own risk. An intervention for the payment will not be made by the United States Government unless there has been a denial of justice, or unless the breach of contract is considered confiscatory. In lump-sum agreements between governments for compensation of claims resulting from nationalization or other taking of property, claims of bondholders are deemed not to be included unless the agreement expressly so provides. No provision for Yugoslav Government bond claims appears in the Yugoslav Claims Agreement of 1964.

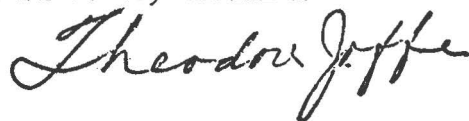
Accordingly, the Commission concludes that the nonpayment of the bonds in question issued by the Government of Yugoslavia or its predecessors does not give rise to a valid claim under the Yugoslav Claims Agreement of 1964. Therefore, this claim is hereby denied.

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

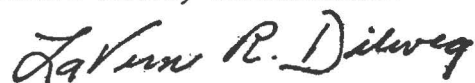
SEP 6 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, 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).)