

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

ALEXIS G. BACIC

Claim No. Y2-0522

Decision No. Y2- 1

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

PROPOSED DECISION

This is a claim for \$22,727.00 based upon the loss of an interest in improved real property situated in Belgrade, Yugoslavia. Claimant, ALEXIS G. BACIC, has been a national of the United States since his naturalization on June 18, 1956.

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 1964, which provides, among other things:

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.

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 he was the owner of an 8/20 interest in an apartment house situated at No. 17 Admiral Goprata Street in Belgrade, which was nationalized by the Yugoslav Government on April 12, 1960. In support of the claim, claimant submitted, among other things, an extract from the land books, an agreement of purchase and sale, and four pictures of the apartment house in question. The documents in the Yugoslav language were accompanied by verified English translations.

Based upon the documentation presented by the claimant, the Commission finds that claimant was the owner of an 8/20 ownership interest in a piece of improved real property consisting of an apartment house located at the corner of Admiral Goprata and Dobrinjska Streets in the City of Belgrade, recorded in the land books under Liber No. 1505, cadastral district of Belgrade (5th Precinct); that claimant purchased this interest on May 22, 1939, the remaining 12/20 ownership interest having been purchased by other persons, members of claimant's family who are not claimants before this Commission; and that the entire interest in the aforesaid property was acquired for the sum of 2,500,000 dinars which was paid by the purchasers in full.

The Commission further finds that the subject property was nationalized by the Government of Yugoslavia on April 12, 1960 by virtue of the final decision by the Nationalization Commission of the People's Committee of Savski Venac in Belgrade, issued pursuant to the Law on Nationalization of Buildings for Rent and of Building Lots of December 26, 1958 (Official Gazette of Yugoslavia, No. 52, of December 31, 1958).

As stated above, claimant has submitted a purchase and sales agreement. This document shows that on May 22, 1939 the entire property was purchased

for 2,500,000 dinars. Claimant's valuation of the property is predicated upon this figure.

The Commission's records indicate that since the beginning of World War II there was no real estate market in Yugoslavia in the sense such markets are known in the West. During World War II, Yugoslavia was occupied by enemy forces and controlled by alien military authorities. The economic consequence of war originated an inflationary trend which resulted in an extreme increase in prices. The rapid inflationary trend during and immediately after the war distorted the prices of all commodities and goods, including the prices of real estate. After the war, the nationalization of large tracts of agricultural property and of industrial holdings paralyzed the real estate market. Additionally, many apartment houses and office buildings were confiscated or taken by the Yugoslav Government as abandoned property or property owned by foreign nationals. In 1948, all transactions concerning real property were placed under government control and subject to severe restrictions (Official Gazette of Yugoslavia, No. 24 of March 24, 1948). A sale or other transfer of real property was possible only on the basis of a special license issued by the Government, but such license was seldom granted. In 1953 the Government of Yugoslavia took over the administration of all dwelling houses (Official Gazette of Yugoslavia, No. 52 of December 26, 1953). In 1954 the Law on the Trade in Building Lots and Buildings (Official Gazette of Yugoslavia, No. 26 of June 23, 1954) was enacted which permitted the transfer of houses and building lots between private persons without a government license. However, the government administration of the houses and thus full governmental control over the rents and leases remained in effect. In April 1959, the Government of Yugoslavia enacted the Law on Dwelling Rights (Official Gazette of Yugoslavia, No. 16 of April 22, 1959), which established the right of use of tenants in a house disregarding the ownership rights of the landlords, so that the right of use became, in fact, the decisive feature in the law for

real property in Yugoslavia. In December 1959, all the houses for rent which had more than two larger or three smaller apartments were nationalized (Official Gazette of Yugoslavia, No. 52 of December 31, 1958, supra). Since the enactment of this nationalization law sales and purchases of real property were restricted, to all intents and purposes, to sellers who had both title to the property and the right of its use, and who were willing to vacate the apartments or house, subject of the sale. The prices obtained from such sales are not indicative of any market value and merely reflect the growing demand for the use of dwelling houses, apartments, and office space in the centers of the larger Yugoslav cities.

Moreover, the currency of Yugoslavia was subjected to a steady and continuous depreciation. In 1945 the exchange rate of the dinar was fixed at 50 dinars to \$1.00; but this exchange rate was from the very beginning unrealistic and did not reflect the domestic purchasing power of the dinar. In 1952 this exchange rate was raised to 300 dinars for \$1.00; but since 1954 the Yugoslav Government established a concurrent exchange rate of 600 dinars for \$1.00 for certain non-business transactions and in 1956 a rate of 400 dinars for \$1.00 was fixed for exchanges in the tourist trade. Subsequently, the 600 : 1 exchange rate was used for the tourist trade and then for all transactions. In 1961 this rate was increased to 750 : 1, and in 1965 to 1250 : 1.

Thus, inasmuch as the intrinsic value of real property would not be affected by the fluctuations in the value of the currency, any evaluation of claimant's property in postwar dinars may result in quite distorted values when converted into United States dollars. The Commission is, therefore, of the opinion and hereby concludes that the prewar (1938 - 1939) values reflect a better basis for the appraisal of the property, and that such prewar values should be considered as the initial point of reference for valuation purposes. This holding does not exclude consideration of later valuations where the evidence indicates that such later valuations are more appropriate.

In using the prewar value as the basic date, the Commission has considered the normal depreciation for wear and tear of the improvements on the property and that wartime conditions and other factors accelerated the wear and tear of buildings in Yugoslavia. On the other hand, it must be noted that improved real property of the type involved herein increased in value during the postwar years in all countries of the world due to increased housing demands and that, as a general rule, such increase may have set off any depreciation which may have occurred.

The official rate of exchange in 1939 was 44 dinars for \$1.00. (See Claim of Joseph Senser, Docket No. Y-1756, Decision No. 663 [1954], published in Settlement of Claims by the Foreign Claims Settlement Commission of the United States, p. 19 [1954].) This official rate was not applied to all financial transactions between Yugoslavia and foreign countries. In some cases, the National Bank of Yugoslavia paid premiums from 5% to 28.5% above the official rate for proceeds from exports and from other foreign exchange transfers. However, the Commission holds that the official rate of exchange of 44 dinars for \$1.00 is applicable in claims under the 1964 Agreement for the conversion of property values expressed in prewar dinars.

Based upon the entire record, including photographs of the building, the Commission finds that claimant's 8/20 interest in the property had the value of 1,000,000 prewar dinars, the amount corresponding to the purchase price paid in 1939 for the 8/20 interest in the property, and, converted into United States currency at the rate of 44 dinars for \$1.00, the exchange rate applicable to prewar dinars, that claimant's interest had a value of \$22,727.00.

The record shows that on October 3, 1958 a mortgage in the amount of 885,000 dinars was recorded in the land books as an encumbrance on the entire property in favor of the Fund for the Financing of Housing Development of the City of Belgrade. The mortgage was based on a loan granted

to the administrator of the house apparently for the purpose of repairing the property.

Section 3 of the Interpretative Minute to the Yugoslav Claims Agreement of 1964 provides as follows:

Rights and interests in and with respect to properties which are mortgaged or otherwise encumbered by an owner or the owners thereof are covered and settled by this Agreement for the amount of the equity or value remaining after deduction of the principal amount of such mortgage or other encumbrance.

Accordingly, the Commission concludes that the value of claimant's interest in the property must be reduced by an amount corresponding to 8/20 of the mortgage of 885,000 dinars or 354,000 dinars, which, converted at 600 : 1, the applicable exchange rate of the dinar at the time of the loss, amounts to \$590.00. Therefore, the net value of claimant's equity interest in the property at the time of loss was \$22,137.00.

An important question is presented as to whether or not interest should be allowed on the amount awarded as the value of the property taken. In this connection, Section 8(c) of the International Claims Settlement Act of 1949, provides in subsection (5) that after payment has been made of the principal amount of all awards, pro rata payments should be made on all accrued interest on such awards as bear interest.

Additionally, under settled principles of international law, interest is allowable on claims for compensation for the taking of property. (See Moore, Digest of International Law, Vol. VI, p. 1029 [1906]; Hackworth, Digest of International Law, Vol. V, p. 735; Eagleton, The Responsibility of States in International Law, pp. 203-204.)

During the administration of the claims program provided for under the Yugoslav Claims Agreement of 1948, which was also governed by the provisions of Title I of the International Claims Settlement Act of 1949, as amended, this Commission allowed interest on awards granted for the nationalization or other taking of property. In that program interest was allowed

at the rate of 6% per annum from the date of taking to August 21, 1948, the date on which the Government of Yugoslavia paid the full amount agreed upon. (See Claim of Joseph Senser, supra.)

The 1964 Agreement is unlike the 1948 Agreement in that payment of the agreed amount by Yugoslavia is not to be paid in a lump sum as was the case in the 1948 Agreement. Article 2(b) of the 1964 Agreement provides that payment by the Government of Yugoslavia shall be made in equal payments of \$700,000 each, the first installment to be paid on January 1, 1966 and the remaining payments to be made on January 1 of each succeeding year through January 1, 1970.

A similar issue regarding the payment of interest and the period during which such interest accrued arose during the administration by the Commission of the claims program covered by the Polish Claims Agreement of 1960 (Agreement with the Government of the Polish People's Republic Regarding Claims of Nationals of the United States, July 16, 1960, 11 U.S.T. & O.I.A. 1953, T.I.A.S. No. 4545 [1960].) This program was likewise governed by the provisions of Title I of the International Claims Settlement Act of 1949, as amended. The Commission held that interest should be allowed from the date of nationalization or other taking by the Government of Poland to the date on which the Agreement entered into force. (See Claim of John Hedio Proach, Claim No. PO-3197, Dec. No. PO-652, 17 FCSC Semiann. Rep. 47, 49 [July-Dec. 1962].)

After full consideration of this matter, the Commission holds that interest shall be allowed on awards granted in claims under the Yugoslav Claims Agreement of 1964 for the nationalization or other taking of property and that such interest shall be allowed at the rate of 6% per annum from the date of nationalization or other taking to January 20, 1965, the date on which the Agreement entered into force and effect.

A W A R D

An award is hereby made to ALEXIS G. BACIC in the principal amount of Twenty-two Thousand One Hundred Thirty-seven Dollars (\$22,137.00), with interest thereon at 6% per annum from April 12, 1960, the date the claim arose, to January 20, 1965, the date on which the Yugoslav Claims Agreement entered into force, in the sum of Six Thousand Three Hundred Thirty-eight Dollars and Forty-nine Cents (\$6,338.49).

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

AUG 23 1967

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

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].)