

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

IN THE MATTER OF THE CLAIM OF

JOHN CONTUS

Claim No. Y2- 1652

Decision No. Y2-
1657

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 \$3,410.00, is based upon the asserted ownership and loss of real property in Rijeka, Yugoslavia, and upon the placement and payment of a compulsory mortgage on claimant's property. Claimant, JOHN PETER CONTUS has been a national of the United States since his birth in the City of New York on November 20, 1925.

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) [1964]), 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.

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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, [1965] 16 U.S.T. 1, T.I.A.S. No. 5750
[effective January 20, 1965].)

Claimant states that he owned certain unimproved real property in Rijeka, valued at \$3,000.00, which was nationalized by the Government of Yugoslavia, and claims a loss of \$410.00 for a mortgage in the amount of 410,000 dinars placed by the Government of Yugoslavia upon claimant's property in Rijeka for costs and expenditures the Government had incurred after the war in repairing claimant's war-damaged house.

Real Property

The Commission finds that claimant was the owner of a 236/1000 interest in real property numbered 2085/1, consisting of a building lot measuring 156 square fathoms or 561.6 square meters, recorded in Liber No. 3880 of the cadastral district of Rijeka, situated at No. 8 Fran Kurelac (formerly Pascoli) Street in Rijeka.

The Commission further finds that claimant's interest was nationalized by virtue of the Decision No. 1422/59 of the People's Committee for the Old City of Rijeka, dated August 17, 1959, pursuant to the Law on the Nationalization of Buildings for Rent and Building Lots (Sl. List [Yugoslavia], No. 52, Item 890, December 31, 1958).

Claimant states that the value of his interest was \$3,000.00. The Government of Yugoslavia appointed an expert who appraised the property in its condition as of the year 1938. The expert stated that claimant purchased the property on June 5, 1934 for 45,000 Italian lire. The property then consisted of an apartment on the second floor of a house at No. 8 Pascoli Street with a 236/1000 share in the land, a 278/1000 share in the entrance area, and a 352/1000 share in the stairways; and in a 1/5 share in the corridors of the house. During the war, the house was destroyed and at the time of nationalization, the property consisted of the land only. The expert for the Yugoslav Government further stated that the value of the property in 1938 was 138,500 dinars expressed in prewar currency.

The Commission has held that the prewar (1938-1939) values reflect the best basis for the appraisal of property 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 dollars at the rate of 44 dinars for \$1.00. (See Claim of Alexis G. Bacic, Claim No. Y2-0522, 1967 FCSC ANN. REP. 75.)

Based upon the entire record and upon information available concerning the value of real property in the city of Rijeka, the Commission finds that at the time of nationalization, the land in question had a value of 160,000 dinars, expressed in Yugoslav prewar currency, or \$3,636.36 and that claimant's 236/1000 interest is represented by the amount of \$858.18.

Mortgage

Claimant further states that on August 11, 1962 he acquired by a deed of gift certain real property at No. 100 Porecka Street in Rijeka. This house was damaged during the war and the Yugoslav authorities made expenditures for the repairs in the amount of 410,000 dinars. According to the claimant, this amount of expense was placed on the property as a compulsory mortgage in favor of the Government and claimant was forced, at the time when he accepted the gift, to pay the mortgage of 410,000 dinars with accrued interest, because otherwise the property would have been foreclosed.

The Commission finds that the placement of the mortgage on the property for repairs made by the Government does not constitute a nationalization or taking of property within the meaning of the Yugoslav Claims Agreement of 1964. This mortgage was entered in the land books of Rijeka on May 9, 1950 in favor of the Communal Bank of the City of Rijeka on the basis of a bond (credit document) signed by the then owner of the property. The payment of the mortgage was made for the satisfaction of an indebtedness which, to all intents and purposes, appears to be legally and economically justified. The Commission,

therefore, concludes that the payment of the mortgage likewise does not constitute a confiscation or taking of property.

The claim for the loss resulting from the placement and payment of the mortgage is, therefore, denied.

The Commission points out that claimant expressly stated that he does not claim the loss of the land or improvements at No. 100 Porecka Street.

As stated above, claimant is entitled, under the Agreement, to an award in the amount of \$858.18.

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, (supra).) Accordingly, the amount of the award will be increased to that extent in the instant claim.

A W A R D

An award is hereby made to JOHN CONTUS in the principal amount of Eight Hundred Fifty-Eight Dollars and Eighteen Cents (\$858.18) together with interest thereon in the sum of Two Hundred Seventy-Nine Dollars and Thirty-Four Cents (\$279.34) which interest is at the rate of 6% per annum from August 17, 1959, the date the claim arose, to January 20, 1965, the date on which the Yugoslav Claims Agreement entered into force.

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

MAR 26 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, 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].)