

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

IN THE MATTER OF THE CLAIM OF

RADOJE NIKOLITCH

Claim No. Y2-1769

Decision No. Y2-0982

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

PROPOSED DECISION

This claim for \$26,000.00 is based upon the asserted ownership and loss of improved real property located in Belgrade, Yugoslavia. Claimant, RADOJE NIKOLITCH, has been a national of the United States since his naturalization on May 13, 1952.

Under Section 4(a) 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 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.

. . . .

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, 1946, [1965], 16 U.S.T. 1, T.I.A.S. No. 5750 [effective January 20, 1965].)

Claimant submitted an extract from the land books which shows that he was the owner of real property recorded in Liber No. 181 of the cadastral district of Belgrade 6, consisting of a land parcel No. 1462 at No. 9 Pushkin Street in Belgrade, measuring 2,366.7 square meters, with a house facing the street erected thereon and a small auxiliary building constructed in the yard behind the main house. The extract shows that by a decision No. 04-2438, dated May 13, 1960, issued by the Secretariat for Finances of the People's Committee of Belgrade-Savski Venac, the land was nationalized 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). The improvements consisting of the two houses were not nationalized but left in the ownership of the claimant. A record was entered in the land books stating that the owner of the improvements and his legal inheritors have the right to use the land free of charge to the extent the land is needed for the ordinary use of the houses. This right is valid as long as the main house is standing on the land. Another entry in the land books states that the former owner (claimant) is entitled to use an area of 1,000 square meters for the purpose of building family dwelling quarters on that area of land. However, the record indicates that claimant has constructed no dwelling quarters on the premises and thus failed to exercise the right that had been granted to him.

Claimant further submitted an appraisal of the property executed by Dusan A. Dingarac, a civil engineer of Belgrade. The appraisal indicates that the residence had a value of 879,480 prewar dinars, the auxiliary building 42,805 prewar dinars, and that the land had a value of 360 dinars per square meter, or 852,120 prewar dinars for 2,366.7 square meters.

The Commission has considered the economic conditions which existed in Yugoslavia after World War II including the fluctuations in the value of the currency and the distorted prices of all commodities, goods and real estate. In the Claim of Alexis G. Bacic, Claim No. Y2-0522, 1967 FCSC ANN. REP. 75, the Commission concluded that the prewar (1938-39) values reflect a better basis for the appraisal of property and would be considered as the point of reference for valuation purposes; and that prewar dinars shall be converted into United States dollars at the official rate of exchange of 44 dinars for \$1.00.

As stated hereinbefore, the record reveals that the houses recorded in claimant's name were not nationalized. The Commission, therefore, concludes that the portion of the claim for improvements is not compensable under the Agreement; and that claimant is only entitled to compensation for the land nationalized by the decision of May 13, 1960. With respect to the amount of compensation, the Commission finds that at the time of nationalization the value of the land was 360 dinars per square meter, or 852,012 prewar dinars for the entire land measuring 2,366.7 square meters.

The Commission has given consideration to the fact that claimant retained the right of use of the land adjoining the house and that he has obtained another right of use of 1,000 square meters of land for the construction of a new house on the property. The Commission finds, however, that this right of use is of little economic value, inasmuch as under the Law on the Designation of Building Lots in Cities and Urban Settlements (S1. List [Yugoslavia], No. 5, February 7, 1968), the transfer of the

right of use of building lots is restricted. This right can only be transferred to the owner's spouse, descendants, adopted children, and parents. The Commission has, therefore, determined that the value of the building lot should not be reduced on account of such right.

As a result, claimant is entitled under the Agreement to compensation in the amount of 852,012 prewar dinars, or \$19,363.91, the value of the nationalized land.

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.

A W A R D

An award is hereby made to RADOJE NIKOLITCH in the principal amount of Nineteen Thousand Three Hundred Sixty-Three Dollars and Ninety-One Cents (\$19,363.91) together with interest thereon in the sum of Five Thousand Four Hundred Forty-Four Dollars and Fifty-Five Cents (\$5,444.55) which interest is at the rate of 6% per annum from May 13, 1960, 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

AUG 21 1968

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].)