

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

OTTO JOHN MUNZ
618 Warner Building
Washington 4, D. C.

Claim No. CZ-4,549

Decision No. CZ-3384

Under the International Claims Settlement
Act of 1949, as amended

FINAL DECISION

The Commission issued its Proposed Decision on this claim under date of May 16, 1962 denying it for the reason that the evidence did not establish that claimant owned the property upon which the claim is based and that the property was nationalized or otherwise taken by the Government of Czechoslovakia between January 14, 1952, the date claimant acquired nationality of the United States and August 8, 1958, the effective date of Title IV of the Act.

Claimant filed objections to the Proposed Decision, submitted supporting evidence and requested a hearing which was held on July 19, 1962.

Having fully considered the entire record including the objections, the evidence in support thereof, the arguments presented at the hearing and the briefs submitted on behalf of claimant, it is

ORDERED that the Proposed Decision be amended as follows:

The Commission finds that OTTO JOHN MUNZ, a national of the United States since January 14, 1952, owned an apartment house, No. 43, in Prague-Bubenec, Czechoslovakia.

Under Law 80/52 Sb., effective January 1, 1953, the owners of such property were subjected to such restrictions that it amounted to a destruction of the incidents of ownership. The Commission, has, therefore concluded that in the absence of evidence to the contrary,

property in Czechoslovakia with such an income may be considered taken as of January 1, 1953.

The record shows that claimant's property was within the purview of Law 80/52 Sb., and accordingly was taken without compensation by the Government of Czechoslovakia on January 1, 1953. It is therefore concluded that claimant is entitled to compensation for such loss.

On the basis of the entire record, the Commission finds that the value of claimant's equity in the property thus taken was 2,000,000 crowns, or \$40,000.00 converted at the prevailing rate of exchange, \$.02 per crown.

The Proposed Decision is affirmed in all other respects.

It is further

ORDERED that as amended the Proposed Decision be entered as the Final Decision on this claim; and that the following award be certified to the Secretary of the Treasury.

A W A R D

An award is hereby made to OTTO JOHN MUNZ in the principal amount of Forty Thousand Dollars (\$40,000.00) plus interest thereon at the rate of 6% per annum from January 1, 1953 the date of taking, to August 8, 1958, the effective date of Title IV of the Act in the amount of Thirteen Thousand Four Hundred Forty-six Dollars and Eighty Cents (\$13,446.80) for a total award in the amount of Fifty-three Thousand Four Hundred Forty-six Dollars and Eighty Cents (\$53,446.80).

Dated at Washington, D. C.

SEP 14 1962

Edward J. De
Theodore Joffe
LaVern R. Diweg
COMMISSIONERS

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

OTTO JOHN MUNZ
618 Warner Building
Washington 4, D. C.

Claim No. CZ-4,549

Decision No. CZ- 3384

Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

This is a claim in the amount of \$463,939.01 against the Government of Czechoslovakia under Section 404 of Title IV of the International Claims Settlement Act of 1949, as amended, by OTTO JOHN MUNZ, a national of the United States since his naturalization on January 14, 1952. The claim is based on the nationalization or other taking of property, described in more detail below.

Section 404 of the Act provides, inter alia, for the determination by the Commission in accordance with applicable substantive law, including international law of the validity and amount of claims by nationals of the United States against the Government of Czechoslovakia for losses resulting from the nationalization or other taking on and after January 1, 1945, of property including any rights or interests therein owned at the time by nationals of the United States.

Section 405 of the Act provides as follows:

A claim under Section 404 of this title shall not be allowed unless the property upon which the claim is based was owned by a national of the United States on the date of nationalization or other taking thereof and unless the claim has been held by a national of the United States continuously thereafter until the date of filing with the Commission.

Real Property

Claimant asserts that he was the owner of a farm located in Havlickuv Brod, Czechoslovakia, measuring in excess of 70 hectares, consisting of fields, meadows, woods, machinery, fixtures, livestock and agricultural implements which claimant acquired from his father, Paul Munz, on October 22, 1946. Claimant further asserts that attached to the ownership of the farm were certain water rights, a stone quarry and a vegetable oil refinery built on the farm during the German occupation of Czechoslovakia.

Claimant further states that he was the owner of an apartment house located at No. 43 Bubenecska Street in Prague, recorded in Liber No. 457 of the community of Prague-Bubenec, consisting of 17 apartment units which he inherited from his mother, Irma Munz, who died on August 27, 1948.

No evidence has been submitted that claimant owned the above described farm with appurtenances and the apartment house. The Commission has held that generally title to real property in Czechoslovakia should be evidenced by official documents, such as extracts from the land register, deeds, duly verified contracts, inheritance decrees, tax assessments and similar instruments. In this instance such documents have not been produced. The Commission is fully aware of the difficulties claimants encounter in procuring the required documents in support of their claims. Additionally, the Commission has endeavored to procure such evidence for the claimant through its own independent investigation abroad, but such attempts have been unsuccessful. It should be noted, in passing, that claimant was a resident and legal counsel of a government enterprise in Czechoslovakia from October, 1945, to February, 1948, and that he was in a position to procure the aforesaid records and evidence showing ownership and the taking and value of the real property, upon which his claim is predicated.

Personal Property

Automobile and Personal Belongings - Claimant asserts that he owned an automobile "Tatra" and personal belongings which are not specifically described. Claimant alleges that the automobile was expropriated by the Germans, but then "taken over" by the Communists and never "returned".

Bank Deposits - Claimant states that he was the owner of seven (7) bank accounts in the aggregate amount of 990,285.30 Czech crowns, which were on deposit in various banks in Havlickuv Brod and Prague, and of a deposit of 100,000.00 Czech crowns in custody with a Notary Public.

Participations - Claimant further asserts that he had a 45% participation in the factory and in the assets of a Cooperative of Alcohol Manufacturers, and participation shares in the local Dairy Cooperative, Livestock Cooperative and Stock Factory Cooperative of Havlickuv Brod.

No evidence whatsoever has been submitted to show that claimant owned the property specified above and that the same was nationalized or otherwise taken by the Government of Czechoslovakia.

Debt claim against "SPOFA" National Corporation - Claimant asserts that he has a debt claim against "SPOFA", a Czechoslovak government enterprise, for professional services performed between October 1945 and February 1948. The Commission has held that unsecured debt claims originating from contractual relations against a nationalized corporation and against a Czechoslovak government enterprise do not give rise to a compensable claim under Section 404 of the Act. ^{1/} Additionally, evidence in support of this item of the claim has not been submitted.

1/ In the Matter of the Claim of SKINS TRADING CORPORATION, Claim No. CZ-3,978, Decision No. CZ-734.

Damage Claim

Claimant also asserts that he suffered damages because of the loss of his office and his profession as a lawyer in Prague; apparently claimant was prevented from exercising his law practice in Czechoslovakia after 1948.

The aforesaid Section 404 of the Act does not provide for compensation of damages resulting from the inability to practice a profession. It embraces only losses resulting from the nationalization or other taking of property or interests in property. The profession of practicing law is not "property", but a privilege, and a sovereign state is entitled under international law to establish the conditions, rules and regulations under which such privilege may be granted and revoked. Claimant did not state that his right to practice had been revoked, but he implies in his statement of claim that he has been prevented from the exercise of his profession. However, the Commission finds, that even if the Government of Czechoslovakia had revoked claimant's right to practice law, such revocation would not have constituted a taking within the scope of Section 404 of the Act.

In view of the foregoing and in accordance with Section 531.6(d) of the Commission's Regulations which provides that the claimant shall have the burden of proof on all issues in the proceedings, this claim is denied in whole.

The Commission deems it unnecessary to consider other elements of the claim, including the fact that under Section 405 of the Act the above described individual items of the claim would be compensable only, if claimant could prove to the satisfaction of the Commission that his property was nationalized or taken by the Government of

Czechoslovakia on or after January 14, 1952, the date of claimant's naturalization and prior to August 8, 1958, the effective date of Title IV of the Act.

Dated at Washington, D. C.

BY DIRECTION OF THE COMMISSION

MAY 16 1962

A handwritten signature in cursive script, reading "Francis T. Masterson". The signature is written in dark ink and is positioned above the printed name and title.

Francis T. Masterson
Clerk of the Commission