

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

IN THE MATTER OF THE CLAIM OF

JOSEPH SMOLIK
1507 South Grove Avenue
Berwyn, Illinois

Claim No. CZ-4,032

Decision No. CZ- 3417

Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

This is a claim in the amount of \$84,165.00 against the Government of Czechoslovakia under Section 404 of Title IV of the International Claims Settlement Act of 1949, as amended, by JOSEPH SMOLIK, a native born citizen of the United States.

The claim is based on the asserted nationalization or other taking by the Government of Czechoslovakia of the following property:

	<u>Valued by Claimant</u>
(1) Improved real property, located in Pilsen, Karlova ul. 16	\$61,200.00
(2) Bank account in the Zivnostenska Banka, Pilsen Branch, in the amount of 102,200 crowns	13,447.00
(3) Premiums paid to Czechoslovakian Government Agency on account of Voluntary Social Security	3,555.00
(4) Premiums paid on account of an endowment insurance policy issued by the "Slavia" Insurance Company	5,963.00

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 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.

(1) Real Property

The Commission finds that claimant was the owner of the subject real property, described as a four-apartment building and shop building, when it was taken by the Government of Czechoslovakia without compensation on September 14, 1954. Claimant alleges that in "1954 my (this) realty was appraised at Kcs 600,000.00". However, he has not submitted the appraisal. Upon the entire record, the Commission finds that the value of the subject real property, when taken as aforesaid, was \$7,500.00. In arriving at this value, the Commission considered the evidence with respect thereto filed by claimant, including (a) tax bill issued by the City of Pilsen, which evidences that the gross rental income for this property for the year ending December 1, 1952, was 12,622.40 crowns; (b) the lease for the shop building, dated August 14, 1948, which shows that the annual rent thereof was fixed at 5,200 crowns; and (c) the price paid for the property by the claimant and the cost of repairs, alterations and additions thereto, amounting in all to 253,709 ^{1/} crowns, excluding 31,072 crowns expended for repairs due to war damage. Loss sustained as the result of war damage is not compensable under the Act.

(2) Bank Account

The bank account represents the balance of 145,105.90 crowns which claimant allegedly deposited with the Zivnostenska Banka in 1949. Claimant states that this balance, "about 102.200.00 Kcs have been completely wiped out by the Czechoslovak government in 1953 by means of monetary reforms - Law NO. 41/1953." This statement is incorrect. Law No. 41/1953 did not annul or otherwise take bank accounts representing deposits made in 1949. That law annulled deposits which were made prior to November 15, 1945, in so-called prewar "old koruna". That the balance of claimant's bank account was not "wiped out" is further evidenced by a letter, dated July 30, 1960, addressed to claimant by the Czechoslovak State Bank. Said letter and

^{1/} The rate of exchange of the crown from November 15, 1945 through June 1, 1953 was \$0.02 per crown.

accompanying statement show that the balance of crowns on deposit to claimant's credit was converted into new currency under the monetary reform Law 41/53 effective June 1, 1953, and that claimant's account was alive. The Commission finds that conversion of the crown into new currency under Czechoslovak Law 41/53 did not constitute a "taking" of property within the meaning of Section 404 of the Act.^{2/} Moreover, a prohibition against the transfer of funds outside of a country is an exercise of sovereign authority which, though causing hardship to nonresidents having currency on deposit within a country, may not be deemed a "taking" of property within the meaning of Section 404 of the Act.^{3/}

Accordingly, the portion of the claim based on the bank account must be and hereby is denied.

(3) Social Security Premiums

The Commission finds that from 1935 through 1952 claimant and his late father, in claimant's behalf, paid in the aggregate amount of 25,072 crowns as premiums towards voluntary social security insurance operated by the Czechoslovak State Office for Social Security. Czechoslovak Law No. 55/1956, effective January 1, 1957, "repealed" this type of insurance. The aforementioned Czechoslovakian agency informed claimant by letter of March 18, 1960 that "You get no credit for all the payments you paid to Dec. 31, 1952 (on account of this insurance)". The Commission finds that Czechoslovak Law 55/1956, supra, constituted a taking of property within the meaning of Section 404 of the Act, and that claimant is entitled to compensation for the premiums paid on account of this insurance, as indicated above, at the rate of 2 cents per crown.

(4) Life Insurance Policy

The insurance policy was issued to the claimant on June 28, 1947. No evidence has been submitted that the premiums paid to the insurance company

2/ See: In the Matter of the Claim of KAROLIN FURST, Claim No. CZ-1,381, Decision No. CZ-682.

3/ See: In the Matter of the Claim of MICHAEL KNIS, Claim No. CZ-1,003, Decision No. CZ-772.

on account of this policy were taken by the Government of Czechoslovakia. On the contrary, according to a letter dated November 2, 1959, which claimant received from the Czechoslovak State Insurance District Office, Pilsen, the subject policy was then in full force and effect at a reduced amount occasioned by claimant's failure to pay premiums in 1953. Accordingly, since claimant has failed to establish that the Government of Czechoslovakia took the policy or the premiums paid thereunder, this portion of the claim based thereon must be and hereby is denied.

The Commission concludes that claimant is entitled to compensation under Section 404 of the Act for the following items:

<u>Property</u>	<u>Date of Taking</u>	<u>Principal</u>	<u>Interest*</u>
Real property	September 15, 1954	\$7,500.00	\$1,755.00
Voluntary social security premiums	January 1, 1957	<u>501.44</u>	<u>48.22</u>
	Total	\$8,001.44	\$1,803.22

*Interest is computed at the rate of 6% per annum from the respective dates of taking to August 8, 1958, the effective date of Title IV of the Act.

A W A R D

Pursuant to the provisions of Title IV of the International Claims Settlement Act of 1949, as amended, an award is hereby made to JOSEPH SMOLIK in the principal amount of Eight Thousand One Dollars and Forty-four Cents (\$8,001.44), plus interest thereon in the amount of One Thousand Eight Hundred Three Dollars and Twenty-two Cents (\$1,803.22), for a total award of Nine Thousand Eight Hundred Four Dollars and Sixty-six Cents (\$9,804.66).

Dated at Washington, D. C.

BY DIRECTION OF THE COMMISSION:

Francis T. Masterson

Francis T. Masterson
Clerk of the Commission

MAY 31 1962

THIS DECISION WAS REVERSED AS THE COMMISSION'S FINAL DECISION ON ~~MAY 31 1962~~ **JUL 9 1962**

Francis T. Masterson

Clerk of the Commission