

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

IN THE MATTER OF THE CLAIM OF

ALBINA TRUNECEK (mother of Albina Trunecek) and
ALBINA TRUNECEK (daughter of Albina Trunecek)
305 North 7th Street
Benld, Illinois

Claim No. CZ-4,628

Decision No. CZ-1016

Under the International Claims Settlement
Act of 1949, as amended

GPO 16-72126-1

PROPOSED DECISION

This is a claim in the amount of \$2,150 against the Government of Czechoslovakia under Section 404 of the International Claims Settlement Act of 1949, as amended, by ALBINA TRUNECEK and ALBINA TRUNECEK (daughter of the aforesaid Albina Trunecek), nationals of the United States since January 26, 1945 and January 1, 1945, respectively. This claim is based upon the following property:

(1) Bank accounts:

- (a) Account No. 102,340 in the State Bank of Czechoslovakia in Prague, with a balance of 66,926.50 crowns, in the name of Albina Trunecek (mother),
- (b) Account No. 102,339 in the State Bank of Czechoslovakia in Prague, with a balance of 66,916.60 crowns, in the name of Vaclav Trunecek,
- (c) Account No. 44,770 in the Zivnostenska Banka in Prague, Czechoslovakia, with a balance of 34,611.90 crowns, in the name of Vaclav Trunecek, and
- (d) Account No. 176-14437 in the State Bank of Czechoslovakia in Prague, with a balance of 3,082 crowns, in the names of Vaclav Trunecek and Albina Trunecek (husband and wife),

- (2) 3% State Defense Bond in the face amount of 1,000 Crowns on deposit in the Zivnostenska Banka in Prague, Czechoslovakia for Vaclav Trunecek.

CZ-12
CZ-14
CZ-16

The Commission finds that Vaclav Trunecek died intestate in Illinois on January 15, 1955, and that his heirs were Albina Trunecek, widow, and Albina Trunecek, daughter, who inherited one-third and two-thirds, respectively, of any claim he had against the Government of Czechoslovakia based upon his interest in the properties described in (1)(b), (1)(c), (1)(d) and (2) in the first paragraph of this Decision.

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.

Clearly then, it follows from the congressional mandate to the Commission that there must be a showing, among other things, that the Government of Czechoslovakia nationalized or otherwise took property of a claimant in order for the Commission to act favorably on his claim. A study of the history of events with respect to bank accounts and savings accounts in Czechoslovakia reveals that pursuant to Law 41/53 Sb., effective June 1, 1953, those deposits which were made prior to November 15, 1945 in old currency were annulled by the Government of Czechoslovakia.

As to those bank accounts described in (1)(a), (1)(b) and (1)(c) above, the Commission finds that the interest of Albina Trunecek (mother) and of Albina Trunecek (daughter) in these accounts amounted to 100,769.33 crowns (66,926.50 plus 1/3 of 66,916.60 plus 1/3 of 34,611.90) and 67,685.67 crowns (2/3 of 66,916.60 plus 2/3 of 34,611.90), respectively; that the right of each claimant to payment of her interest in these accounts was property within the meaning of Section 401(1) of the Act which defines property as "any property, right or interest" and that these rights to payment were taken by the Government of Czechoslovakia on June 1, 1953 by virtue of Section 7 of Law 41/53 Sb. which cancelled such rights.

As to that bank account described in (1)(d) above, deposits made on or before November 15, 1945, in pre-World War koruna, and blocked as of November 1, 1945, pursuant to Decree 91/45 Sb., were annulled by Section 7 of Law 41/53 Sb. The Commission has determined that such annulment constituted a "taking" of property within the meaning of Section 404 of the Act. This bank account, however, is based upon a deposit made in 1948 in new koruna which was established by Decree 91/45 Sb., as of November 1, 1945. While Law 41/53 Sb., effective June 1, 1953, annulled the right to payment of bank deposits in old currency made on or prior to November 15, 1945, it did not annul the right to payment of bank deposits in new currency made after this date. There is no evidence before the Commission to show that this bank deposit was taken by the Government of Czechoslovakia after June 1, 1953. The claimants having failed to establish any action on the part of Czechoslovakia which amounts to a "nationalization or other taking" of such deposit within the meaning of the Act, this item of the claim is denied.

With regard to the bond described in (2) above, the Commission finds that bond obligations of the Czechoslovakian State issued in crown currency were annulled by the Government of Czechoslovakia on June 1, 1953 pursuant to Law 41/53 Sb.; that the right of Albina Trunecek (mother) and of Albina Trunecek (daughter) to payment of one-third and two-thirds, respectively, of the face amount of this bond of 1,000 crowns was property within the meaning of Section 401(1) of the Act which defines property as "any property, right or interest" and that these rights to payment were taken by the Government of Czechoslovakia on June 1, 1953 by virtue of Section 7 of Law 41/53 Sb. which cancelled such rights.

Claimants assert a loss in the sum of \$2,150. The evidence establishes that the bank accounts and the bond had a value of \$3,389.10 when they were annulled on June 1, 1953. It seems obviously unjust to hold claimants to their statement in the Statement of Claim, made as a mere

matter of conjecture, where the evidence of record proves a loss in excess of the amount claimed. This is feasibly corroborated by the modern liberalization of the rules of pleading to conform the pleadings to the proof. The Commission, therefore, concludes that claimants are entitled to an award in the amount of the loss sustained.

Accordingly, the Commission concludes, with respect to this claim, that the claimants are entitled to compensation at the rate of \$1.00 for 50 crowns for such taking under Section 404 of the Act.

Section 408 of the Act provides that with respect to any claim under Section 404 of Title IV of the Act which, at the time of the award, is vested in persons other than the person by whom the loss was sustained, the Commission may issue a consolidated award in favor of all claimants then entitled thereto, which award shall indicate the respective interests of such claimants therein, and all such claimants shall participate, in proportion to their indicated interests, in the payments authorized by this Title in all respects as if the award had been in favor of a single person.

Accordingly, the Commission has concluded that pursuant to the foregoing provisions of the Act, Albina Trunecek (mother) is entitled to an award based upon the property described in (1)(a) above, and the two claimants are entitled to a consolidated award based upon the property described in (1)(b), (1)(c) and (2) above, in which Albina Trunecek (mother) and Albina Trunecek (daughter) have interests of one-third and two-thirds, respectively, as set forth in the Award section below.

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 ALBINA TRUNECEK (mother of Albina Trunecek) in the principal amount of One thousand three hundred thirty-eight dollars and fifty-three cents (\$1,338.53), plus interest thereon at the rate of 6% per annum from June 1, 1953 to August 8, 1958, the effective date of Title IV of the Act, in the amount of Four hundred sixteen dollars and fifty-one cents (\$416.51), in the total amount of One thousand

seven hundred fifty-five dollars and four cents (\$1,755.04); and a consolidated award is hereby made in the principal amount of Two thousand fifty dollars and fifty-seven cents (\$2,050.57), plus interest thereon at the rate of 6% per annum from June 1, 1953 to August 8, 1958, the effective date of Title IV of the Act, in the amount of Six hundred thirty-eight dollars and eight cents (\$638.08), in the total amount of Two thousand six hundred eighty-eight dollars and sixty-five cents (\$2,688.65), in which the interests of the claimants are as follows:

	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
ALBINA TRUNECEK (mother of Albina Trunecek)	\$ 683.52	\$ 212.69	\$ 896.21
ALBINA TRUNECEK (daughter of Albina Trunecek)	<u>1,367.05</u>	<u>425.39</u>	<u>1,792.44</u>
Total	<u>\$ 2,050.57</u>	<u>\$ 638.08</u>	<u>\$ 2,688.65</u>

Dated at Washington, D. C.

JUN 30 1960

BY DIRECTION OF THE COMMISSION:

Francis T. Masterson JRM
DSB

Francis T. Masterson
Clerk of the Commission

THIS DECISION WAS ENTERED AS THE COMMISSION'S
FINAL DECISION ON AUG 1 1960

Francis T. Masterson
Clerk of the Commission