

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

IN THE MATTER OF THE CLAIM OF

KOLOMAN LEBOVIC

Claim No. CZ-2-0047

Decision No. CZ-2-0664

PROPOSED DECISION

This claim in the amount of \$43,601.00 against the Government of Czechoslovakia under subsection 5(a) of the Czechoslovakian Claims Settlement Act of 1981 (Public Law 97-127, 95 Stat. 1675) is based upon the non-payment of a pension assertedly owed to the claimant.

Claimant became a United States citizen by naturalization on October 26, 1965.

Under subsection 5(a) of the Czechoslovakian Claims Settlement Act of 1981, the Commission is given the following jurisdiction:

"The Commission shall receive and determine, in accordance with applicable substantive law, including international law, the validity and amount of claims by nationals of the United States against the Government of the Czechoslovak Socialist Republic for losses resulting from the nationalization or other taking of property owned at the time by nationals of the United States, which nationalization or other taking occurred between August 8, 1958, and [February 2, 1982]."

The claimant states that he was employed by the township of Fancikovo, in Ruthenia, from July 1, 1931 until March 14, 1939, when that former area of Czechoslovakia was taken over by Hungary. The claimant also indicates that he was employed by Spojene Ocelarny in Chomutov, Bohemia, from March 10, 1948 until June 12, 1948. The claimant asserts that he was a member of the pension fund of Poldiny Hutí for 16 years and is entitled to payments from the Czechoslovakian government for his employment in Czechoslovakia during the 1930's and 1940's.

In the first Czechoslovakian claims program administered by the Commission under Public Law 85-604 (Title IV of the International Claims Settlement Act of 1949), which compensated eligible claimants for losses occurring prior to August 8, 1958, the Commission held that the mere non-payment of pension benefits to a United States citizen did not constitute a nationalization or other taking of property absent an express repudiation, cancellation, or annulment of the pension rights by the Government of Czechoslovakia. (See Claim of LADISLAV KAREL FEIERABEND, Claim No. CZ-2529, Decision No. CZ-1423.) As stated by the Commission in that Decision:

"The legislative history of Title IV of the aforesaid Act indicates that Congress did not intend to include compensation of creditor claims for the non-payment of debts, unless a specific action of the Government of Czechoslovakia shows that such creditor's rights were annulled, abolished or cancelled. Representatives of the Department of State testified before both Houses of Congress that it was not the intention of the Government of the United States to include in a future agreement with Czechoslovakia payment of creditor claims and that the draft legislation before Congress which was subsequently enacted into law does not direct payment of such claims."

The "future agreement" referred to in the foregoing Decision was finally signed in Prague and came into effect on February 2, 1982. Under this agreement Czechoslovakia paid the United States \$81.5 million in full settlement and discharge of the claims of the United States Government and its nationals "based upon measures of nationalization, expropriation, disposition, or other restrictive measures involving takings of their properties, rights, and interests . . ."

This agreement was reviewed and specifically approved by Congress in Public Law 97-127. Although Congress had been apprised of the Commission's previous denials of pension claims, the Congress in section 5(a) of Public Law 97-127 provided no new directions to the Commission in determining the validity of claims arising after August 8, 1958. Rather,

identical language was included requiring that a loss occur from "the nationalization or other taking of property" by the Government of Czechoslovakia. Not only did inclusion of this identical language indicate concurrence with the Commission's previous interpretation, but Congress went further and added section 11 of the Act specifically addressing the question of payment of social security benefits to United States residents. Section 11 contains no reference to the Commission, but rather directs the Secretary of State to prepare a report assessing the Czechoslovakian Government's compliance with the 1968 agreement on the reciprocal payment of social security benefits and to make recommendations to the Congress as to the courses of action the United States could take to achieve greater comparability and equity of benefits for the residents of the two countries.

Based upon this legislative history, the Commission affirms its previous holdings that the mere non-payment of pension benefits to a United States citizen does not constitute a nationalization or other taking of property absent an express repudiation, cancellation, or annulment of the pension rights by the Government of Czechoslovakia.

Since KOLOMAN LEBOVIC did not acquire United States citizenship until October 26, 1965, this claim filed under subsection 5(a) of Public Law 97-127 could not be found compensable without evidence that his pension rights were repudiated, cancelled, or annulled after that date. The claim file, however, contains no documentation from Czechoslovakia dated later than 1948. Thus, there is no basis for the Commission to find that the claimant's pension rights have been

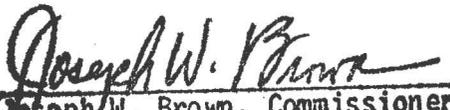
the subject of a taking by the Government of Czechoslovakia since October 26, 1965. If the claimant's pension rights were ever repudiated, cancelled or annulled by the Czechoslovakian government, it appears likely that such a taking would have occurred long before the claimant became a United States citizen.

For the foregoing reasons, the Commission determines that the instant claim is not compensable under subsection 5(a) of Public Law 97-127. Accordingly, this claim must be and it hereby is denied.

The Commission finds it unnecessary to make determinations with respect to other aspects of this claim.

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

**SEP 22 1983**

  
Joseph W. Brown, Commissioner

  
Frank H. Conway, Commissioner

This is a true and correct copy of the decision  
of the Commission which was entered as the final  
decision.

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.)

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