

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

IN THE MATTER OF THE CLAIM OF

WALTER KNOPP

Claim No. CZ-2-0098

Decision No. CZ-2-1011

Hearing on the Record held on **JUL 18 1984**

FINAL DECISION

This claim in the amount of \$20,000.00 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 loss of a dwelling house and garden, household furnishings, a parcel of farmland, and living expenses.

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]."

Accordingly, under the law the Commission can grant awards only for property which was taken after August 8, 1958.

By Proposed Decision issued January 25, 1984, the Commission made a award to the claimant based upon the loss of a 1/2 interest in 1.2586 hectares of farmland, but denied that part of the claim for a house which the evidence showed was still listed in claimant's name and which was being administered on claimants behalf and denied that part of the claim for a bank account which had been annulled on June 1, 1953.

By letter dated February 13, 1984 claimant wrote "your Proposed Decision on the above claim is an affront and is rejected." By letter dated March 1, 1984 claimant was informed that the Commission would consider his letter as an objection on the record and reconsider the matter if within 30 days claimant would "specify those items in the Commission decision which you believe are factually or legally incorrect". No response has been received from claimant.

The Commission finds no basis to change its original decision on this claim and restates the award originally made.

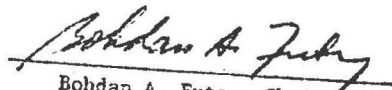
AWARD

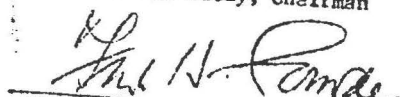
Claimant, WALTER KNOPP, is entitled to an award in the principal amount of Eight Hundred Fifty Dollars (\$850.00), plus interest at the rate of 6% simple interest per annum from January 1, 1962 to February 2, 1982 in the amount of One Thousand Twenty-Four Dollars and Thirty-Nine Cents (\$1,024.39), for a total award of One Thousand Eight Hundred Seventy-Four Dollars and Thirty-Nine Cents (\$1,874.39).

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

JUL 18 1984

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


Bohdan A. Futey, Chairman


Frank E. Conway, Commissioner


Joseph W. Brown, Commissioner

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

IN THE MATTER OF THE CLAIM OF

WALTER KNOPP

Claim No. CZ-2-0098

Decision No. CZ-2-1011

PROPOSED DECISION

This claim in the amount of \$20,000.00 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 loss of a dwelling house and garden, household furnishings, a parcel of farmland, and living expenses.

The record indicates that the claimant was issued a certificate of United States citizenship while serving in the armed forces on January 20, 1948.

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]."

Accordingly, under the law the Commission can grant awards only for property which was taken after August 8, 1958.

The record establishes that the claimant's parents, Josef and Marie Knopp, acquired house no. 302 and an adjoining garden in Jistebnik during the 1920's. Josef Knopp, who was naturalized as a United States citizen on November 10, 1897, died on December 28, 1958 leaving a will designating WALTER KNOPP as the sole beneficiary of his interest in the foregoing property. The claimant indicates that Marie Knopp currently resides in West Germany and relinquished her United States citizenship years ago.

The Commission has received a report from the Czechoslovakian Government, dated August 4, 1983, indicating that house no. 302 and adjoining garden in Jistebnik are under the administration of Zdenek Trosak. According to the report,

"The real estate has not been affected by any regulation which would take away the property right or the right to use this property from the owners. The house is rented with the approval of the administrator."

The claimant has submitted a declaration from Zdenek Trosak, dated March 22, 1983, confirming that he was appointed administrator of the subject property by the claimant's father, Josef Knopp, on April 27, 1951 and that he continues to serve in this capacity. According to Mr. Trosak, local authorities in Jistebnik set a monthly rental rate for the house and appointed tenants to occupy the premises shortly after he assumed his administrative duties. Mr. Trosak stated that all rental income was consumed in paying the annual house tax, house insurance, as well as ongoing maintenance and repairs.

Based on the foregoing evidence, the Commission concludes that house no. 302 and adjoining garden in Jistebnik have not been subject to a nationalization or other taking by the Government of Czechoslovakia within the meaning of subsection 5(a) of Public Law 97-127. While WALTER KNOPP may not be earning any income from the property, there is no evidence that he could not sell the property, devise it by will, or even live in the house should he ever decide to return to Czechoslovakia. Even if the Commission were to regard the actions of local authorities in Jistebnik in 1951, unilaterally setting a monthly rental income and appointing tenants to live in the house, as constituting a constructive taking of the property, this loss would not have occurred after August 8, 1958 as required for compensation under subsection 5(a) of the Czechoslovakian Claims Settlement Act of 1981. Thus, the record contains no evidence that house no. 302 and adjoining garden in Jistebnik have been the subject of a nationalization or other taking between August 8, 1958 and February 2, 1982, as required for compensation under the Act. This part of the instant claim must therefore be denied.

The record includes a copy of a 1937 contract of purchase whereby Josef Knopp bought parcel no. 662/7 in Jistebnik, consisting of 1.2586 hectares of farmland, for his three children--WALTER KNOPP, Irma Knopp and Edita Knopp. The aforementioned report from the Czechoslovakian Government in 1983 indicates that WALTER KNOPP and his two sisters are still recorded as the owners of this land, each with a 1/3 interest. The claimant has advised the Commission that his sister Edita died in 1951, unmarried and without lineal decedents. Under the law of intestate succession in Czechoslovakia, her 1/3 interest in the foregoing property would have been inherited equally by her mother and father. Thus, Josef Knopp would have inherited a 1/6 interest in the property which would have passed under his will to WALTER KNOPP in 1958, thus giving the claimant a total ownership interest of 1/2 in the subject parcel of land.

According to the 1983 report from the Czechoslovakian Government, parcel no. 662/7 has been in the use of a socialist organization since 1962. There is no evidence that WALTER KNOPP or any other member of his family has exercised any control over the property or enjoyed any other fruits of ownership since then. Accordingly, the Commission finds that this property has been taken by the Government of Czechoslovakia. In the absence of more precise evidence as to the date of taking, the Commission determines that the loss occurred on or about January 1, 1962.

In determining the value of parcel no. 662/7 in Jistebnik, the Commission has considered such evidence as its size, use, and purchase price. At 1.2586 hectares, the land was a little over 3 acres in area. It was purchased in 1937 for 24,611.90 crowns. At the 1937 exchange rate, which approximated 3 1/2 cents to 1 crown, this purchase price was the equivalent of about \$860.00. Allowing for some increase in the value of the land between 1937 and 1962, the Commission determines that parcel no. 662/7 had a value of \$1,700.00 at the time of loss in 1962. Claimant WALTER KNOPP is therefore entitled to an award in the principal amount of \$850.00 for his 1/2 interest in the property.

The Commission has concluded that in granting awards under subsection 5(a) of Public Law 97-127 for the nationalization or other taking of property, interest shall be allowed at the rate of 6% simple interest per annum from the date of loss to February 2, 1982, the date the claims settlement agreement between the United States and Czechoslovakia entered into force.

The claimant also asserts the loss of a savings account in the amount of 73,000 crowns at the Opavska Zalozna (Troppauer Sparkasse). The record includes a declaration of property dated November 24, 1945, which was submitted to Czechoslovakian authorities on behalf of WALTER KNOPP by his father, identifying an account at the foregoing bank as belonging to WALTER KNOPP. The record contains no other documentation concerning this account.

The Commission has examined post-war laws in Czechoslovakia affecting bank accounts. It finds that bank accounts which were established before November 15, 1945 were initially blocked and subsequently annulled pursuant to Decree No. 41/53, which took effect on June 1, 1953. The Commission concludes that the annulment of bank accounts under this decree constitutes a taking of the accounts by the Government of Czechoslovakia.

Based on the evidence of record, the Commission concludes that WALTER KNOPP's bank account was established before November 15, 1945 and would therefore have been annulled by the Czechoslovakian Government on June 1, 1953. Since subsection 5(a) of Public Law 97-127 authorizes the Commission to grant awards only for losses which occurred after August 8, 1958, the loss of a bank account in 1953 is not compensable under the Act. Therefore, the Commission finds that this part of the instant claim must be denied.

The Commission notes that if a claim for the subject bank account at the Opavska Zalozna had been filed prior to September 15, 1959 in the Commission's first Czechoslovakian program under Public Law 85-604, which compensated eligible claimants for losses occurring prior to August 8, 1958, the claim might have been compensable. The Commission recognizes that some potential

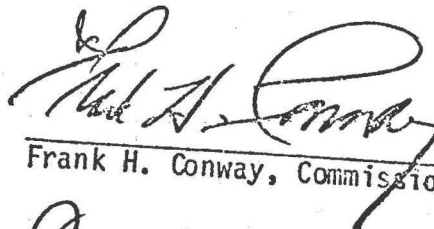
claimants did not file in the first program and may not have become aware of its existence, despite the extensive publicity given to the program. Under the Czechoslovakian Claims Settlement Act of 1981, however, the Commission has no authority or discretion to make exceptions for such cases.

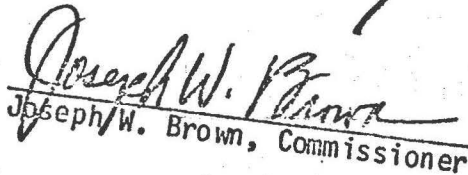
Claim is also made for furniture remaining in house no. 302 in Jistebnik after the last of claimant's family emigrated from Czechoslovakia in 1951, as well as living expenses incurred by the claimant's mother since the death of his father in December 1958. The record contains no evidence of the existence and value of any furniture in the family's dwelling house, however, nor that such property was nationalized or otherwise taken by the Czechoslovakian Government between August 8, 1958 and February 2, 1982, as required for compensation under subsection 5(a) of Public Law 97-127. As for living expenses to the claimant's mother, the claimant has not established that Marie Knopp has any entitlement to such payments under international law or the domestic law of Czechoslovakia. This part of the claim, therefore, entails no property right which could have been the subject of a nationalization or other taking by the Government of Czechoslovakia. Accordingly, the parts of this claim based on household furnishings and living expenses must also be denied.

Claimant, WALTER KNOPP, is entitled to an award in the principal amount of Eight Hundred Fifty Dollars (\$850.00), plus interest at the rate of 6% simple interest per annum from January 1, 1962 to February 2, 1982 in the amount of One Thousand Twenty-Four Dollars and Thirty-Nine Cents (\$1,024.39), for a total award of One Thousand Eight Hundred Seventy-Four Dollars and Thirty-Nine Cents (\$1,874.39).

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

JAN 25 1984


Frank H. Conway, Commissioner


Joseph W. Brown, 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.)

CZ-2-0098