

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

IN THE MATTER OF THE CLAIM OF

VERA D. MIKUTEIT

IRENE DURANA

Claim No. CZ-2-0226
CZ-2-0343

Decision No. CZ-2-1056

Hearing on the record held on NOV 28 1984

FINAL DECISION

These claims in the aggregate amount of \$88,300.50 against the Government of Czechoslovakia under subsection 5(a) of the Czechoslovakian Claims Settlement Act of 1981 (Public Law 97-127, 95 Stat. 1675) are based upon the loss of real property in Nove Mesto and Zilina.

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 and before February 2, 1982.

By Proposed Decision issued January 25, 1984, the Commission denied these claims on the grounds that there was evidence of the purchase of part of the property by the Government of Czechoslovakia for a price which the evidence did not demonstrate was unreasonable and that the purchase price had been placed in a bank account in the name of the United States owner and that this

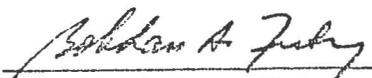
bank account had not been taken. As to the rest of the property, the Commission found that there was no evidence to establish that it had been taken after August 8, 1958.

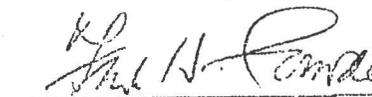
By letter dated February 5, 1984, claimant IRENE DURANA objected on the record to the Proposed Decision. No further evidence has been submitted, however, and therefore for the reasons set forth in the Proposed Decision, the Commission affirms its original denial as its final determination on these claims.

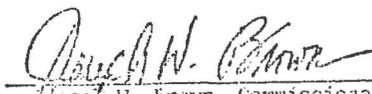
The Commission has forwarded a request to the Government of Czechoslovakia to seek additional evidence concerning these claims. A response to that request has not been received. As set forth in the Proposed Decision, if prior to February 24, 1985 the Commission receives a response from the Government of Czechoslovakia which provides any evidence to allow the Commission to make an award in these claims, the Commission on its own motion will reopen the claims and make an appropriate award.

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

NOV 28 1984


Bohdan A. Futey, Chairman


Frank H. Conway, Commissioner


Joseph W. Brown, Commissioner

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

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IN THE MATTER OF THE CLAIM OF

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IRENE DURANA

Claim No. CZ-2-0226
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Decision No. CZ-2-1056

PROPOSED DECISION

These claims in the aggregate amount of \$88,300.50 against the Government of Czechoslovakia under subsection 5(a) of the Czechoslovakian Claims Settlement Act of 1981 (Public Law 97-127, 95 Stat. 1675) are based upon the loss of real property in Nove Mesto and Zilina.

The evidence of record establishes that claimant VERA D. MIKUTEIT was born a United States citizen on November 29, 1929, and that IRENE DURANA became a United States citizen through naturalization on May 12, 1955.

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 and before February 2, 1982.

IRENE DURANA has asserted the loss of a 1/2 interest in a house and land at 2 Partizanska Street in Nove Mesto, as well

as 15 hectares of land in the same town. IRENE DURANA and her daughter VERA D. MIKUTEIT asserted the loss of a house and land on Gottvaldova Street No. 59 in Zilina.

With respect to the house in Nove Mesto, IRENE DURANA has submitted documentation establishing her 1/2 ownership interest in that property. She stated that in 1976 she visited Nove Mesto and was told that there were plans to demolish the house. In 1977 an appraisal was made of the property by a Czechoslovak expert, who valued it at 108,540.50 crowns.

However, claimant has not submitted evidence establishing that the house was actually demolished or was in any way affected by governmental action at any time after 1976. Claimant was advised by letter dated December 2, 1982 that, in order for her claim to be compensable, there must be evidence of the date and manner by which the property was taken by the Government of Czechoslovakia. No such information has been submitted. Therefore, because the evidence of record does not establish that the property was taken by the Government of Czechoslovakia after August 8, 1958, the Commission finds that this portion of the claim must be denied.

With respect to the 15 hectares of land in Nove Mesto for which IRENE DURANA asserted a loss, she stated that her husband had owned a half interest, and that his sister had owned the other half. Claimant submitted a document establishing her husband's interest in the property. However, no information of the taking of the property by the Czechoslovak authorities was submitted. Accordingly, since the evidence of record does not establish a taking of the property after August 8, 1958, the Commission finds that this portion of the claim must also be denied.

Claimants IRENE DURANA and VERA D. MIKUTEIT have asserted the loss of respective 1/2 interests in a house and plot of

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land at 59 Gottvaldova Street in Zilina. They have submitted documentation establishing that in 1978, the property was bought from them by the National Chemical Works Enterprise in Zilina, at a price of 160,377 crowns. This money was put into a foreign account in the names of the two claimants. After the payment of notarial fees and a capital levy tax, the balance in the account was 140,512 crowns.

Claimants have asserted that the payment by the Chemical Works was only a nominal payment and that the property was therefore "seized" by the government. However, claimants have submitted the contract by which the land was purchased in 1940. At that time the purchase price was 140,000 crowns, or, at the 40:1 rate at which crowns were exchanged for dollars at that time, \$3,500. In 1953 a currency reform was carried out in Czechoslovakia and the official exchange rate established by the Czechoslovak Government became 7.2 crowns to the dollar. However, the Czechoslovak Government also established an unofficial, or bonus exchange rate, which more realistically reflected the value of the crown, and in 1978 this rate was 11 crowns to the dollar. Therefore, the price paid for the claimants' property by the Chemical Works, 160,377 crowns, indicated that it was considered to have had a value in 1978 of approximately \$14,500.

Claimants assert that the property should have been valued at \$30,000. In support of that statement they point to the fact that during World War II, there was damage to the property which cost 3,500 crowns to repair; sewer lines were extended at a cost of 5,000 crowns; and "upkeep of the property during the 37 years of ownership was considerable." The Commission, finds, however, that the expenses pointed to by the claimants indicated only that the property might have been kept in reasonable

repair and not allowed to deteriorate. There is no evidence of alterations or additions to the house which would have greatly increased the value of the property, nor is there evidence which would account for more than the fourfold appreciation between the purchase price and the sales price.

Based upon the foregoing, the Commission finds that there is no basis to conclude that the price paid by the Chemical Works was not a fair and reasonable price for the property. Since it has not been proven that claimants did not receive adequate consideration for the property, the Commission concludes that the evidence of record does not establish a taking of the subject property which gives rise to a claim under subsection 5(a) of the Act. Therefore, this portion of the claim must be and hereby is denied.

With respect to the 140,512 crowns deposited into the claimants' foreign account, claimants were notified that the money was at their disposal and could be used in accordance with Czechoslovak currency regulations.

Currency regulations in Czechoslovakia, as in many other countries, place limitations upon the free use of bank accounts, allowing withdrawal within Czechoslovakia in certain amounts for certain specified purposes but prohibiting the conversion of the funds to foreign currency. An account subject to such regulations is termed a "blocked account."

The Commission has held that it is a well-established principle of international law that such blocking of a bank account is an exercise of sovereign authority which does not give rise to a compensable claim. (Claim of HELEN TASHNER HUGHES, Claim No. CZ-2-0221, Decision No. CZ-2-0763).

While the fact of the blocking of the account may cause nonresidents of Czechoslovakia some hardship, the Commission

concludes that such action does not constitute a nationalization, expropriation or other taking as required for compensation under section 5(a) of the Act.

For the foregoing reasons, the Commission concludes that these claims must be and hereby are denied.

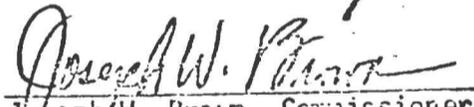
With respect to the house and land in Nove Mesto for which IRENE DURANA asserted a loss, the Commission forwarded a request to Czechoslovakia for information about the property. To date, a response from Czechoslovakia has not been received. Should a response be received prior to the end of this program, and should the information contained therein warrant a change in this decision, the Commission may, on its own motion, reopen these claims for further determination.

The Commission finds it unnecessary to make determinations with respect to other aspects of these claims.

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.)

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