

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

IN THE MATTER OF THE CLAIM OF

ELIZABETH SURAK, AS EXECUTRIX OF  
THE ESTATE OF MATTHEW SURAK,  
DECEASED

ELIZABETH SURAK, Individually

Claim No. CZ-2-0294

Decision No. CZ-2-1289

Counsel for Claimants:

Keck, Mahin & Grove  
By: Robin Grover

AMENDED FINAL DECISION

By Final Decision dated January 23, 1985, the Commission granted an award to ELIZABETH SURAK, individually, in the amount of \$13,520.00, including interest, for her share of certain farmland and a forest area taken by the Government of Czechoslovakia in 1964. Other elements of the claim were denied for failure of the claimant to establish that she owned other property which was nationalized or otherwise taken by the Government of Czechoslovakia between August 8, 1958 and February 2, 1982, as required for compensation under subsection 5(a) of the Czechoslovakian Claims Settlement Act of 1981.

Claimant, through counsel, has now submitted an additional document which she asserts was found in early February of 1985 in her home. This document dated in 1961 is a declaration by ELIZABETH SURAK leaving to the Czechoslovak State her properties and other interests in the case of her departure from the country. While this declaration refers to four parcels of land in Brezova pod Bradlom, at least three of these appear to have been taken or used by the Czechoslovak authorities sometime earlier than 1961 and with respect to these and the remaining parcel and other interests listed there is no size or value given.

The Commission has reviewed the entire record in this claim and now finds that based upon the new materials submitted, claimant ELIZABETH SURAK, Individually, was the owner of a one-half interest in a house at No. 164 in Brezova pod Bradlom, which was also taken by the Government of Czechoslovakia on or about February 2, 1964, for which she is entitled to compensation.

Based on claimant's evidence, the Commission finds that her one-half interest had a value of \$2,000.00 on the date of taking and that the award previously granted should be increased by that amount, plus the appropriate interest.

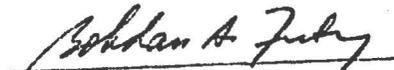
The Commission, therefore, concludes that the Final Decision previously issued on this claim must be and it is hereby amended in accordance with the foregoing and that in all other respects it is affirmed.

A W A R D

Claimant ELIZABETH SURAK, Individually, therefore is entitled to an award in the principal amount of Eight Thousand Five Hundred Dollars (\$8,500.00), plus interest at the rate of 6% simple interest per annum from February 2, 1964 to February 2, 1982, in the amount of Nine Thousand One Hundred Eighty Dollars (\$9,180.00), for a total award in the amount of Seventeen Thousand Six Hundred Eighty Dollars (\$17,680.00).

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

FEB 25 1985

  
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.

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

IN THE MATTER OF THE CLAIM OF

ELIZABETH SURAK, AS EXECUTRIX OF  
THE ESTATE OF MATTHEW SURAK,  
DECEASED, and

ELIZABETH SURAK, Individually

Claim No. CZ-2-0294

Decision No. CZ-2-1289

Counsel for Claimants:

Keck, Mahin & Cate  
By: Robin Grover

Oral Hearing held on Wednesday, October 31, 1984 at 9:30 a.m.

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FINAL DECISION

This claim in the amount of \$483,757.32 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 various property interests owned by ELIZABETH SURAK and Matthew Surak in Czechoslovakia and maltreatment of Matthew Surak due to imprisonment by the Czechoslovak Government.

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 April 26, 1984, the Commission denied this claim on the ground that the confiscation of property owned by Matthew Surak was as a legally permissible penalty for

the conviction of a crime under Czechoslovak law, and that it had not been established that property owned by ELIZABETH SURAK had been nationalized or otherwise taken after August 8, 1958.

Counsel for claimants objected to the Proposed Decision and requested an oral hearing which was held on October 31, 1984, Robin Grover appearing for claimants and testimony was provided by Matthew M. Surak, the son of ELIZABETH SURAK and Matthew Surak, deceased. In addition, counsel for claimant submitted an extensive pre-trial brief as well as supplementary documents and explanatory addendum.

It is claimants' contention that the prosecution of Matthew Surak was essentially a political trial and to the extent that a crime had been committed through the possession of certain gold and foreign currency, this was at most a technicality and the penalty including confiscation of property was so disproportionate that the Commission should not except it as a legitimate sovereign action. An affidavit of claimant ELIZABETH SURAK and of Dr. Martin Kvetko have been submitted in support of the contention. In addition, a copy of the verdict and resume of proof from the People's Court of Majava has been submitted. The Commission has reviewed this material. The Commission concludes that based on the record before it, it is not in a position, a quarter of a century after the fact, without being apprised of all the evidence or statutes in force in Czechoslovakia at the time, to look behind this criminal prosecution. Admittedly, Matthew Surak had possession of U.S. dollars worth \$5,695 as well as gold which a court appraiser found had a value of almost \$12,000, possession of which for speculation was in violation of Czech law as well as in violation of foreign currency regulations of other sections of the Penal Code. The weight that may be given by a particular government to different classifications or types of crime and the penalties prescribed therefore are for the determination of each sovereign government. As Matthew Surak was

a resident of Czechoslovakia, he had placed himself within the jurisdiction of Czech law and the Commission is not in a position to say that the Government of Czechoslovakia violated international law in the exercise of its power to carry out this prosecution. Therefore, as to the claim for loss of property and freedom of Matthew Surak, the Commission affirms its original denial.

ELIZABETH SURAK was not prosecuted or convicted. She asserts that her property also was confiscated in 1959, however, evidence has not been submitted to confirm such an assertion. Claimant ELIZABETH SURAK by way of affidavit states that she was ejected from the family home in 1959, however, the evidence submitted shows that the property upon which the home was built was owned entirely by Matthew Surak and therefore the confiscation of this property would not show that the Government of Czechoslovakia had confiscated property of claimant ELIZABETH SURAK.

Claimant ELIZABETH SURAK states that in 1964 in order to obtain permission to leave Czechoslovakia, she was required to, and did, sign papers to divest herself of all property she owned in Czechoslovakia. As ELIZABETH SURAK was a citizen of the United States of America at the time and should have been afforded, the right and opportunity to leave the Government of Czechoslovakia, the Commission considers the imposition of the requirement to divest herself of all interest in property to be a violation of international standards of justice and thus constituting a taking of property as that term is used in Public Law 97-127. For convenience, the Commission finds February 2, 1964 as the date of loss.

The evidence, by way of deeds of purchase, establishes that ELIZABETH SURAK had a one-fourth interest in approximately 29 acres of farmland and a one-half interest in 15.7 acres of farmland and a forest area, all located in or near Trnava. The Commission finds that claimant ELIZABETH SURAK is entitled to an

award for the value of her interest in that property and taking into consideration the purchase price of the property, the location of the property in an area containing high quality farmland in Czechoslovakia, the Commission finds the value of claimant ELIZABETH SURAK's interest in this agricultural property was worth \$6,500.00 and that she is entitled to an award in this principal sum.

ELIZABETH SURAK also asserts a half interest in a building upon certain property jointly purchased by her and her husband, Matthew, in 1936 and 1941 at a total cost of the equivalent of \$235. According to the testimony of their son, this building was variously used as a warehouse and factory. There is no documentary evidence as to when this property was taken. A tannery and a leather factory were confiscated by the Government of Czechoslovakia in 1948 and the Commission previously made awards for ownership interests held by the sons of ELIZABETH SURAK and Matthew Surak. According to the testimony at the oral hearing, the warehouse building was located in the immediate area of the tannery and leather company. In the previous claim filed, the tannery was described as containing an office building, a manufacturing building and a warehouse. Absent evidence of the contrary, the Commission does not have a basis to conclude but that this warehouse was taken in 1948 along with the tannery and leather company.

The loss of bank accounts is also asserted; however, the only evidence in support thereof is a document submitted after the oral hearing which purports to be an account sheet from a bank in Trnava indicating the existence of an account in 1950. It appears the account had a value of approximately 75,150 Kcs. or the equivalent of approximately \$1,500 as of 1950. The account bears no name. The evidence apparently was found by Matthew M. Surak among the records of his father. While the document provides some evidence of the existence of an account in

1950, it does not establish that claimant ELIZABETH SURAK had any interest in this bank account, nor does it establish what the balance of any account may have been as of August 8, 1958. The Commission therefore finds that the evidence does not establish the existence of any bank accounts in which claimants had an interest which were nationalized or otherwise taken by the Government of Czechoslovakia after August 8, 1958.

A claim has been made for certain personal property. To the extent that this personal property, including cash and gold, constituted the object of the criminal prosecution for having been illegally held, the Commission denies the claim for that loss. Beyond that, it is not established that any additional property owned by claimant ELIZABETH SURAK was nationalized or otherwise taken after August 8, 1958.

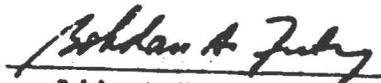
In addition to the principal award in the amount of \$6,500, ELIZABETH SURAK is entitled to 6% simple interest per annum from February 2, 1964 until February 2, 1982, the effective date of the claims settlement agreement between the United States and Czechoslovakia. Therefore the following award is granted as the Commission's final determination of this claim.

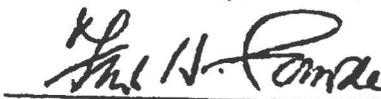
A W A R D

Claimant ELIZABETH SURAK, individually, is therefore entitled to an award in the principal amount of Six Thousand Five Hundred Dollars (\$6,500.00), plus interest at the rate of 6% simple interest per annum from February 2, 1964 to February 2, 1982, in the amount of Seven Thousand Twenty Dollars (\$7,020.00), for a total award in the amount of Thirteen Thousand Five Hundred Twenty Dollars (\$13,520.00).

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

JAN 23 1985

  
Bobdan A. Futey, Chairman

  
Frank H. 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

MATTHEW SURAK

ELIZABETH SURAK

Claim No. CZ-2-0294

Decision No. CZ-2-1289

Counsel for Claimants: Richard James Stevens, Esquire

PROPOSED DECISION

This claim in the amount of \$483,757.32 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 various property interests owned by the claimants in Czechoslovakia and maltreatment of MATTHEW SURAK due to imprisonment by the Czechoslovak Government.

The evidence of record indicates that claimants MATTHEW SURAK and ELIZABETH SURAK became citizens of the United States by naturalization on May 15, 1919 and February 25, 1922, respectively.

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.

In their statement of claim, MATTHEW SURAK and ELIZABETH SURAK asserted the loss of property in Brezova pod Bradlom and Trnava which was allegedly confiscated by the Czechoslovakian

Government at the time of MATTHEW SURAK's arrest in late 1958 and pursuant to a subsequent criminal judgment entered against MATTHEW SURAK by the People's Court of Myjava on February 6, 1959. MATTHEW SURAK also asserted a claim for damages for the 5 1/2 years he spent in prison as a result of the judgment against him.

The judgment against MATTHEW SURAK was based upon his having profited during World War II, thereby amassing large quantities of gold and currency which he hid in his apartment, underground in a woodshed, and at the home of his mother-in-law. Claimant was found, because of his acts, to have caused a loss to the economy of the Czechoslovak State. MATTHEW SURAK was also found to have been guilty of manipulation of the regulations pertaining to monetary reforms in 1946 and 1954. For these criminal acts of speculation, which violated sections 134/1,2 and 145:1 of the Criminal Code, claimant was sentenced to eight years in prison in accordance with Criminal Code section 134/a:2. In addition, all the property then owned by MATTHEW SURAK was confiscated according to section 47 of the Criminal Code, although the judgment did not list the property he actually owned at that time.

The compensation of citizens of the United States for property confiscated or otherwise taken by another government is based upon the responsibility of a State to aliens and alien-owned property within its territory. Responsibility owed by a State to an alien is recognized by international law and the customary practice of States within the international community. However, it is also a recognized principal of international law, and is a part of United States practice, that a State has the sovereign right to enforce its own revenue and currency laws, even if the enforcement of such laws might cause damage to an alien (Restatement (2nd) of the Law, Foreign Relations of the United States §197, 198). The loss caused by the enforcement of

valid laws and regulations, therefore, does not constitute a taking of property which is wrongful under international law and which gives rise to a claim under the Act. In addition, the Commission has previously held that the confiscation of goods pursuant to a valid legal regulation does not give rise to a compensable claim under international law or the Act. (Claim of Herbert Hamann, Claim No. G-0135, Decision No. G-0041).

Based upon the foregoing, the Commission concludes that the loss of MATTHEW SURAK's property in 1959 was the result of a violation of the laws of Czechoslovakia and, therefore, such loss does not give rise to a valid claim under international law or under Public Law 97-127. Accordingly, this portion of the claim must be denied.

The record indicates that ELIZABETH SURAK, the wife of MATTHEW SURAK, was a co-owner of some of her husband's property. The judgment of the People's Court of Myjava ordering the confiscation of MATTHEW SURAK's property in 1959, however, made no mention of ELIZABETH SURAK. Accordingly, there is no basis to presume that her interests in property co-owned with her husband were also confiscated at that time. Nor does the record contain any other evidence of the nationalization or other taking of such property interests 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. The Commission therefore concludes that this portion of the claim must also be denied.

ELIZABETH SURAK claims individually for some real property assertedly inherited from her parents and a gold watch assertedly taken by the police at the time of her husband's arrest in Czechoslovakia. The record contains no evidence of ELIZABETH SURAK's ownership of such property interests, however, nor any evidence of their nationalization or other taking by the Czechoslovakian Government between August 8, 1958 and February 2, 1982.

The Commission finds, therefore, that this portion of the claim also fails to satisfy the requisites for compensability under subsection 5(a) of Public Law 97-127 and must be denied.

Part of MATTHEW SURAK's claim is based on damages due to his imprisonment by the Czechoslovak Government for 5 1/2 years. Public Law 97-127, however, authorizes the Commission to grant awards only for the loss of property which was taken by the Czechoslovak Government after August 8, 1958. Imprisonment or maltreatment does not give rise to a claim which is compensable under the provisions of Public Law 97-127. Consequently, this portion of the claim must be denied as well.

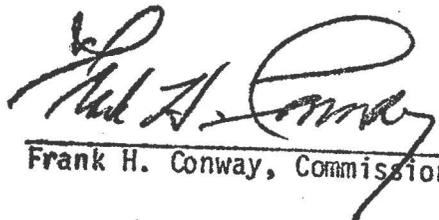
Both claimants have also asserted the loss of a factory in Brezova pod Bradlom which was taken by the Czechoslovak Government in 1948. Subsection 5(a) of the Act, however, authorizes the Commission to grant awards only for losses which occurred after August 8, 1958. Accordingly, the portion of this claim based upon the loss of a factory prior to that date must be denied.

For the foregoing reasons, the Commission finds that this entire 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.

APR 26 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-2-0294