

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

IN THE MATTER OF THE CLAIM OF

ERNEST FREIREICH

Claim No. CZ-2-0522

Decision No. CZ-2-0842

PROPOSED DECISION

This claim in an unstated dollar amount 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 two deposits in Czechoslovakian financial institutions.

The claimant acquired United States citizenship derivatively through his father on March 3, 1927.

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 record indicates that claimant's mother, Etel Freireich, who became a United States citizen in 1941 and died in 1968, owned a 1/3 interest in a house and garden in Sabinov which was expropriated by the Department of Building Construction in Sabinov on June 12, 1974, for which compensation was paid in the amount of 23,645.90 crowns. This sum was apparently held in custody by the Finance Division of the Regional National Council in Presov. The record also indicates that an account in the name of Etel Freireich was established at the State Bank in Poprad with a deposit of 9,557.00 crowns on May 2, 1972. The funds in this account apparently represented compensation to Etel Freireich for the confiscation of some woodland.

The evidence includes a letter from the Finance Division of the Regional National Council in Presov to the claimant's representative in Czechoslovakia, dated April 16, 1981, advising that the 23,645.90 crowns in compensation for Etel Freireich's interest in the Sabinov property had been forfeited to the Czechoslovak State pursuant to a resolution of the State Notary on December 12, 1978. The evidence also includes a copy of a resolution issued by the State Notary in Poprad, dated January 7, 1982, declaring that the account of 9,557.00 crowns at the State Bank in Poprad had been forfeited to the State as well ". . .since the entitled person had not requested the payment. . ." within the time period specified by law.

According to the evidence of record, the claimant's representative in Czechoslovakia was in correspondence with three different offices over a 10-year span from the early 1970's to the early 1980's attempting to establish ERNEST FREIREICH's ownership right to the smaller deposit of 9,557 crowns. Documentary evidence was submitted to Czechoslovakian authorities of the death of Etel Freireich and the claimant's status as her sole successor in interest. The State Notary Office in Poprad indicated it also needed evidence that Etel Freireich had free right of disposition over her woodland property prior to its confiscation and advised claimant's representative to write to the Regional National Council in Presov. This office advised the claimant's representative, however, that the necessary documentation was in the state archives and unavailable for review.

Thus, the very evidence needed to establish ERNEST FREIREICH's ownership right to the smaller deposit was denied the claimant by Czechoslovakian authorities themselves. Declaring the forfeiture of the deposit to the Czechoslovak State on the grounds that "the entitled person had not requested the payment" in the required time period was therefore merely a subterfuge by the State Notary in Poprad for the taking of this account without compensation. Accordingly, the Commission finds that the deposit of 9,557.00

crowns was taken by the Government of Czechoslovakia, within the meaning of subsection 5(a) of Public Law 97-127, on January 7, 1982. Since ERNEST FREIREICH, the rightful owner of this deposit, was a United States citizen at that time, this loss represents a compensable claim under the Act.

As for the larger deposit of 23,645.90 crowns, the record indicates that neither the claimant nor his representative in Czechoslovakia were aware of its existence before 1981--more than two years after its forfeiture in December 1978. The record is unclear as to what efforts, if any, were made by Czechoslovakian authorities prior to the forfeiture to determine the rightful beneficiary of the funds. Even if ERNEST FREIREICH had been timely notified of the requirements for establishing his ownership right, however, the claimant's representative in Czechoslovakia indicates that he would probably have been stymied in the same way that he was in regard to the smaller account. Specifically, he would have been required to submit evidence that his mother had a free right of disposition over her 1/3 interest in the subject real property in Sabinov, which evidence could not be obtained from the one office--the state archives--that might have provided it.

Thus, the claimant would appear to have had no practical opportunity to establish his ownership right to the larger deposit. Even if the requisite evidence of inheritance had been submitted, Czechoslovakian authorities had made it impossible to fulfill the other criterion of ownership--proof of his mother's prior free right of disposition over the realty that was the source of the funds. Based on the entire record in this claim, the Commission concludes that the resolution of the State Notary Office in Presov on December 12, 1978 declaring the forfeiture of the deposit of 23,645.90 crowns constituted a taking by the Government of Czecho-

slovakia within the meaning of subsection 5(a) of Public Law 97-127. Since ERNEST FREIREICH was a United States citizen on that date, this loss represents a compensable claim under the Act.

In determining the values of the respective deposits at the times of loss, the Commission notes that the official exchange rate of Czechoslovakian crowns to U.S. dollars was Kcs. 5.13 : \$1.00 in December 1978 and Kcs. 5.71 : \$1.00 in January 1982. Thus, the deposit of 23,645.90 crowns was worth the equivalent of \$4,609.34 at the time of its loss, while the deposit of 9,557.00 crowns was worth the equivalent of \$1,673.73 at the time of its loss. The claimant is therefore entitled to an award for the loss of the two deposits in the principal amount of \$6,283.07.

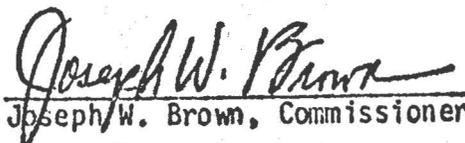
The Commission has concluded that in granting awards under subsection 5(a) of Public Law 97-127, for the nationalization or other taking of property, interest shall be allowed at the rate of 6% simple interest per annum from the date(s) of loss to February 2, 1982, the date the claims settlement agreement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

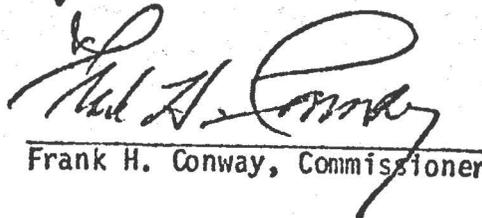
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Claimant, ERNEST FREIREICH, is therefore entitled to an award in the principal amount of Six Thousand Two Hundred Eighty-Three Dollars and Seven Cents (\$6,283.07) plus interest at the rate of 6% simple interest per annum, on Four Thousand Six Hundred Nine Dollars and Thirty-Four Cents (\$4,609.34) from December 12, 1978 to February 2, 1982 in the amount of Eight Hundred Sixty-Eight Dollars and Eighty-Six Cents (\$868.86) and on One Thousand Six Hundred Seventy-Three Dollars and Seventy-Three Cents (\$1,673.73) from January 7, 1982 to February 2, 1982 in the amount of Seven Dollars and Twenty-Five Cents (\$7.25), for a total award of Seven Thousand One Hundred Fifty-Nine Dollars and Eighteen Cents (\$7,159.18).

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

OCT 17 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.)