

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

IN THE MATTER OF THE CLAIM OF

OTTA KARASEK

Claim No. CZ-2-0822

Decision No. CZ-2-0494

PROPOSED DECISION

This claim in the amount of \$104,440.00 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 improved real property and business property in Prague-Holesovice, as well as two bank accounts, an insurance policy, an automobile, and a library.

Claimant became a United States citizen by naturalization on December 11, 1962.

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 claimant asserts that his father, Frantisek Karasek, a Czechoslovakian national who died on October 1, 1945, was the sole owner of improved real property at Na Zatorach 11 (old no. 125) in Prague 7 (Holesovice). The building contained four

rooms for rent and a business. The record includes a copy of a document issued by the District Civil Court for Prague-North on October 18, 1946 listing the heirs of Frantisek Karasek, who died intestate, as: his widow, Josefa Karaskova; the daughters from his first marriage, Vilemina Dobiasova and Ruzena Koubkova; as well as the daughter and son from his second marriage, Elvira Polivkova and claimant OTTA KARASEK. A subsequent ruling from the court, dated August 19, 1949, identified Frantisek Karasek as the owner of only a 1/2 interest in the real property at Na Zatorach 11 and ordered the recordation of the claimant and his sister, Elvira Polivkova, in the land register as the new owners of this 1/2 interest. Thus, the record indicates that OTTA KARASEK inherited a 1/4 interest in the subject property from his father.

The claimant has advised the Commission, however, that the interest in the real property at Na Zatorach 11 he inherited from his father, along with personal property he owned in Czechoslovakia, was confiscated by the Communist government because of his illegal departure from Czechoslovakia in 1948. Since the claimant did not acquire United States citizenship until December 11, 1962, his 1/4 interest in the subject real property in Prague would not have been owned by a United States national at the time of loss, as required for compensation under subsection 5(a) of Public Law 97-127. This part of OTTA KARASEK'S claim must therefore be denied.

The claimant indicates that his stepmother, Josefa Karaskova, and his sister Elvira, along with her husband, Peter Kaspar, continued to reside in the house at Na Zatorach 11 in Prague-Holesovice until they all died in 1975. The record contains a copy of a decision issued by the State Notary for Prague 7, dated October 13, 1975, indicating that the claimant's sister owned 1/2 of the subject real property at Na Zatorach 11, as well as a Skoda automobile. The State Notary decision identifies the heirs of Elvira Kasparova, in equal 1/3 interests, as her two half-sisters, Vilemina Dobiasova and Ruzena Koubkova, as well as her

brother OTTA KARASEK. The State Notary's decision indicates that Vilemina Dobiasova was to inherit Elvira Kasparova's entire 1/2 interest in the real property as well as the automobile, in exchange for which she was to pay each of her two co-heirs 13,871 crowns--the equivalent of 1/3 of the total value of the estate. The record includes several bank statements indicating that 11,635 crowns were subsequently deposited in the Zivnostenska Banka in Prague for OTTA KARASEK in 1976 and that this sum was converted at a rate of 5.73 crowns:1 dollar into \$2,027.00 and transferred by order of OTTA KARASEK on April 19, 1977 from the Zivnostenska Banka to the First National Bank of Cicero in Cicero, Illinois.

The claimant argues that he was denied his rightful share of the real property at Na Zatorach 11 in Prague-Holesovice and the Skoda automobile because of discriminatory inheritance laws in Czechoslovakia. The Commission notes, however, that international law recognizes the right of a sovereign state to regulate the inheritance of property interests within its borders. Denying or restricting inheritance rights of persons living outside Czechoslovakia is a justified exercise of sovereignty by the Czechoslovakian government. As far as the estate of Elvira Kasparova is concerned, Czechoslovakian authorities did not deny the claimant all participation therein, but merely ordered that his inheritance be in the form of cash rather than a share in the real property and automobile. Furthermore, there is no evidence in the record that the amount OTTA KARASEK received did not represent adequate consideration for his 1/3 interest in the estate of Elvira Kasparova.

The claimant asserts that Elvira Kasparova also held two savings accounts at the Statni Sporitelna, a life insurance policy, and a library. The record contains no evidence of the existence of the two savings accounts and life insurance policy, or that these property interests were taken by the Czechoslovakian government. As for the library, the record contains a letter to the claimant from his co-heir, Vilemina Dobiasova, indicating

that the books owned by Elvira Kasparova, along with additional items of her personal property, had been taken by Elvira's son, Richard Kaspar, shortly after her death. Vilemina Dobiasova indicated that the subject books were not included in the inventory of Elvira Kasparova's estate. Thus, there is no evidence that they were ever taken over by the Czechoslovakian government. As for the business which the claimant asserts was operated in the building at Na Zatorach 11 in Prague-Holesovice, the claimant indicates that it ceased to exist after 1975 when the building was demolished to make way for an expressway. However, the record contains no evidence that the claimant ever inherited an ownership interest in any such business property which was taken over by the Czechoslovakian government.

Based on all the evidence of record, the Commission concludes that the claimant did not inherit any property from Elvira Kasparova after her death in 1975 which has been nationalized or otherwise taken by the Government of Czechoslovakia, as required for compensation under subsection 5(a) of Public Law 97-127. The parts of this claim based upon an additional interest in the real property at Na Zatorach 11 in Prague-Holesovice, business property at the same address, two bank accounts, a life insurance policy, a Skoda automobile, and a library, therefore, must also be denied.

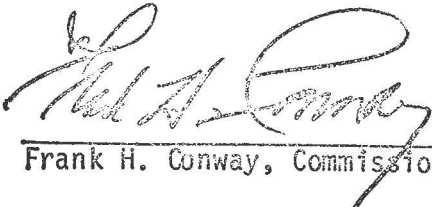
Accordingly, the Commission determines that this claim must be and hereby is denied in its entirety. The Commission finds it unnecessary to make determinations with respect to other aspects of this claim.

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


Joseph W. Brown, Commissioner

SEP 22 1983

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


Frank H. Conway, 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.)