

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

IN THE MATTER OF THE CLAIM OF

ILSE BAER
EDITH de BODO

Claim No. CZ-2-0895

Decision No. CZ-2-0160

Hearing on the Record held on **OCT 17 1983**

FINAL DECISION

This claim in an unstated 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 improved real property and personalty located at Anglicka 15 in Olomouc, Moravia.

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]."

By Proposed Decision dated April 15, 1982, the Commission denied claimant's claim on the ground that the property had been taken prior to August 8, 1958.

Subsequently, the Commission received a letter from claimant ILSE BAER dated April 13, 1983, a letter dated April 21, 1983 from Edward J. Cleary, attorney at law, who refers to himself as ILSE BAER's attorney, and finally a letter dated May 2, 1983 from

claimants ILSE BAER and EDITH de BODO. The Commission has considered these letters as constituting an objection on the record to the Proposed Decision of the Commission.

None of these letters dispute the fact that the property was lost before August 8, 1958. Rather the letters from claimants protest what they consider an unfair distribution of funds as set forth in the requirements of the statute. The Commission, however, has no authority to deviate from the directions given to the Commission by the Congress in Public Law 97-127 and protests against the contents of that statute are inappropriately directed to the Commission rather than to the legislature which passed the statute.

The letter from counsel apparently argues that the Commission has authority to find this claim compensable because the Congress allocated some \$5.4 million to be distributed to certain claimants who previously had been found not to be United States citizens on the date their property was confiscated. Apparently, counsel is referring to section 6(b) of Public Law 97-127 which authorizes the Commission to reopen and redetermine the validity of certain claims. The only claims which the Commission was authorized to redetermine, however, were claims which were originally filed with the Commission in accordance with provisions of Title IV of the International Claims Settlement Act of 1949, which were based on property found by the Commission to have been nationalized or taken by the Government of Czechoslovakia on or after January 1, 1945 and before February 26, 1948 and which were denied by the Commission in that previous program because such property was not owned by a person who was a national of the United States. As claimants did not file a claim under Title IV of the International Claims Settlement Act of 1949.

they are not within the class of claimants who were entitled to a redetermination. Furthermore, even if they were entitled to a redetermination under section 6(b) they would have been eligible to receive an award upon such redetermination only if they had become citizens of the United States on or before February 26, 1948, which is not in fact the case as to these claimants. Therefore, there is no merit to the contention that section 6(b) or any other section of Public Law 97-127 gives the Commission any authority to make an award in this claim.

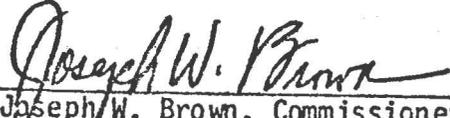
The Commission therefore has no alternative but to affirm its original denial as its final determination of this claim.

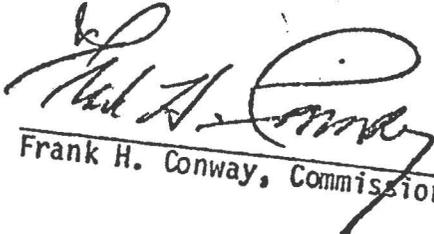
Accordingly, it is

ORDERED that the Proposed Decision be and it is hereby affirmed.

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

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IN THE MATTER OF THE CLAIM OF

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Claim No. CZ-2-0895

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PROPOSED DECISION

This claim in an unstated 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 improved real property and personalty located at Anglicka 15 in Olomouc, Moravia.

Claimant ILSE BAER became a United States citizen by naturalization in 1955. Claimant EDITH de BODO has not stated when she acquired United States citizenship, although she indicates she did not even enter the United States until after World War II.

Under subsection 5(a) of the Czechoslovakian Claims Settlement Act of 1981, the Commission is given the following jurisdiction:

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

The claimants assert that their parents, Jacob and Camilla Schick, owned a three-story building at Anglicka 15 in Olomouc containing stores on the ground floor and apartments on the second and the third floors. The claimants indicate that their parents were forced to sell this property in 1941 as a result of Nazi persecutory measures and that they both perished before the end of World War II. As their parents' only heirs, ILSE BAER and EDITH de BODO state that they filed a restitution claim with the

Czechoslovakian government after the war, but that the property was never returned nor any compensation paid. Apparently the Czechoslovakian government never issued a decision on their claim.

In the first Czechoslovakian claims program administered by the Commission under Public Law 85-604 (72 Stat. 527, approved August 8, 1958) the Commission held that property owners who lost their property as a result of persecutory measures during the German occupation of Czechoslovakia retained beneficial interests in their property even though they may have lost legal title. The Commission found that the Czechoslovakian government instituted a restitution program after World War II providing persecutees the opportunity to reclaim their property and in some cases legal title was restored to the rightful owners. In many other cases, however, the Czechoslovakian government failed to act upon restitution claims or denied them outright. The Commission found that restitution proceedings were suspended by the Czechoslovakian government on December 21, 1949, after which no favorable actions were taken on claims still pending.

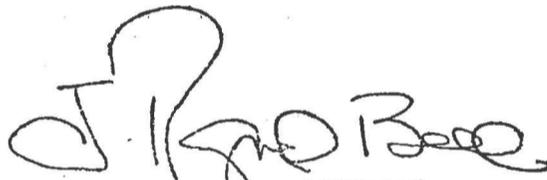
In all claims based on property originally lost as a result of persecutory measures, the Commission concluded that such property was taken by the Government of Czechoslovakia (1) on the date a restitution claim was denied or (2) on December 21, 1949 in the event no restitution claim was filed or no decision was issued on a claim or (3) on the date before or during restitution proceedings that the property was actually nationalized or confiscated by the Czechoslovakian government. (These conclusions are set forth in the Commission's Panel Opinion No. 6, printed on pages 28-30 of the Foreign Claims Settlement Commission's Eleventh Semiannual Report to the Congress for the period ending December 31, 1959.)

Based on the information provided by the claimants, the Commission concludes that the Czechoslovakian government issued no decision on their claim for restitution of the subject property at Anglicka 15 in Olomouc. The Commission therefore finds that this property was taken by the Government of Czechoslovakia on December 21, 1949, the date restitution proceedings were ordered suspended. Since subsection 5(a) of the Act authorizes the Commission to grant awards only for losses which occurred after August 8, 1958, the loss of the subject property in 1949 is not compensable under the Act. Furthermore, the record indicates that the property involved herein was not owned by United States nationals on the date of loss, as required for compensation under the Act. For the foregoing reasons, the Commission determines that this claim must be and hereby is denied.

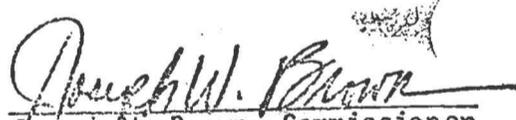
The Commission finds it unnecessary to make determinations with respect to other aspects of this claim.

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

APR 5 1983


J. Raymond Bell, Chairman


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.)