

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

IN THE MATTER OF THE CLAIM OF

ANNA P. MICHAK

Claim No. CZ-2-0983

Decision No. CZ-2-0721

PROPOSED DECISION

This claim in the amount of \$25,000.00 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 asserted loss of farmland in Cernina.

Claimant became a United States citizen by birth in the United States on April 23, 1921.

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 Commission's jurisdiction is further limited by certain provisions of Title IV of the International Claims Settlement Act of 1949, as amended (Public Law 85-604, approved August 8, 1958), which are incorporated by reference in the present Act. Under those provisions, an award may not be granted in a claim unless the property on which it is based was owned at the time of loss by a "national of the United States," the relevant definition of which is "a natural person who is a citizen of the United States."

Claimant asserts that she and her husband, George Michak, whom she married in 1948 and who became a United States citizen by naturalization in February 1983, were together the owners of six acres of farmland at an unspecified location in the village of Cernina, having acquired the property through inheritance from

her husband's father and grandfather. She further asserts that the property was taken by the Czechoslovakian Government in 1974. However, she has provided no information as to the dates of her husband's father's and grandfather's deaths or to support her contention that she became a part owner of the property following their deaths, stating only that, according to a brother-in-law in Czechoslovakia, the property is still listed in the land records in her husband's father's and grandfather's names and had been "given" to her husband by his father.

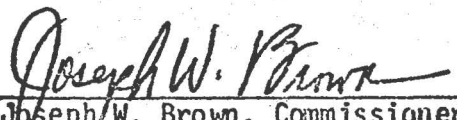
Although the information submitted is somewhat conflicting, it appears that the property involved in this claim would have passed from claimant's husband's father and grandfather to their descendants under the applicable law of inheritance or intestate succession. In tracing the succession to ownership of property in such cases, the Commission must look to the law of the situs of the property--in this case, the law of Czechoslovakia. However, its examination of Czechoslovakian real property and inheritance law discloses no basis upon which the claimant, either through marriage to her husband or because of her status as his spouse, would have become the legal owner, along with her husband, of property owned by her husband's father at the time of his death. Rather, the Commission must conclude that the property would have passed to and remained in the sole ownership of her husband from the time of his father's death until it was taken in 1974.

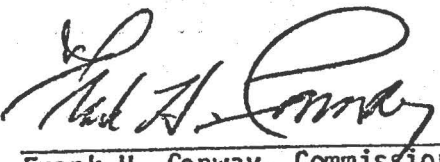
Based on the fact that claimant's husband did not become a United States citizen until 1983, the Commission therefore finds that the property on which this claim is based was not owned by a national of the United States at the time of its loss, as required in order for an award to be granted under the present Act. Accordingly, this claim must be and it is hereby 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.

SEP 22 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.)

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