

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

IN THE MATTER OF THE CLAIM OF

MARIA E. MICHAL

Claim No. CZ-2-1316

Decision No. CZ-2-1038

Hearing on the Record held on **MAR 20 1984**

FINAL DECISION

This claim in the amount of \$80,946.00 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 the furniture and furnishings contained in an apartment in Prague and three bank accounts in Prague.

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 January 25, 1984, the Commission denied this claim on the ground that there was no evidence of any property having been taken after August 8, 1958.

By letter dated February 10, 1984, claimant objected on the record to the Proposed Decision. Claimant makes three points by way of objection. First, she argues that the Commission is not considering the bank accounts in Czechoslovakia as her property. This is not what the Commission held. The Commission held that bank accounts do constitute property, but there was no evidence that any bank accounts belonging to claimant were nationalized or otherwise taken between August 8, 1958 and February 2, 1982. In the claim originally filed under Title IV of the International Claims Settlement Act of 1949, as amended, which adjudicated claims against the government of Czechoslovakia arising between January 1, 1945 and August 8, 1958, claimant delineated as bank accounts, two sums for which she made claim. One was a debt from one Vladimir Rodovsky, who indicated that in 1940 claimant had left certain funds with him in old Czech crowns and that as of 1947 a request to transfer such funds to the United States had been "refused." Additionally, claimant asserted that in 1942, she gave 12,000 old crowns to a Mrs. Baxantova for safe keeping, but according to a statement from claimant, this individual later deposited the money in a savings account under her own name. Therefore, in neither case of these two personal debts, was there involved a bank account in the name of claimant. There is, furthermore, no indication in the entire record that the government of Czechoslovakia took any action involving these personal debts between August 8, 1958 and February 2, 1982. There is no merit to claimant's first contention.

Claimant secondly argues that the blocking of her bank account constitutes a confiscation and is in violation of international reciprocity. Claimant states that if the United States government blocked accounts of foreign citizens, she would be inclined to share the views of the Commission. In point of fact, the United States government has blocked

foreign accounts, including those of Czechoslovakian nationals, as is its right as a sovereign nation. The Commission finds no basis to change its holdings in a series of claims, in a number of programs / conducted by the Commission, that a sovereign state has the right to put in place currency restrictions to protect its foreign currency reserves; even when such restrictions prevent the conversion of local bank accounts into foreign currency and the transfer of such currency out of the country.

Finally, claimant criticizes the Commission for having sought information through diplomatic channels from the government of Czechoslovakia, and indicates she is dismayed by the discriminating action, whereby the Commission is discrediting statements and evidence submitted by claimant, while it does "fish around in hostile waters from where you can hardly expect an honest answer, if any." Claimant cites as "proof" the fact that the Czechoslovakian government had not responded to the Commission's request at the time the Proposed Decision was issued.

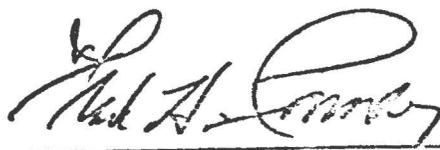
Since the issuance of the Proposed Decision, the Commission has received a reply from the government of Czechoslovakia which confirms, rather than discredits, the information supplied by claimant to the effect that there exists, in Czechoslovakia, a bank account in the claimant's name, and that information will be provided to the claimant or her representative.

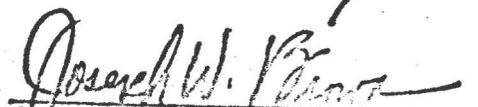
The Commission finds that the three points made by claimant by way of objection are without merit and that there is no basis to change the proposed decision of the Commission.

The Commission, therefore, affirms its original denial as its final determination of this claim.

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

MAR 20 1984


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

MARIA E. MICHAL

Claim No. CZ-2-1316

Decision No. CZ-2-1038

PROPOSED DECISION

This claim in the amount of \$80,946 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 the furniture and furnishings contained in an apartment in Prague and three bank accounts in Prague.

Claimant became a United States citizen by birth in the United States on August 16, 1916.

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.

Claimant states that she and her mother, Maria A. Michal, who became a United States citizen through naturalization on January 26, 1920, and died in 1973, were the owners of various articles of household furniture, furnishings and other personal property in an apartment in the Letna section of Prague, and asserts that they also owned three bank accounts in Prague. As

supporting documentation, she has submitted a copy of an inventory of the apartment contents and copies of several pieces of correspondence concerning a bank account in the Czechoslovak State Bank in Prague, as well as a copy of a declaration by one Vladimir Rodovsky dated March 4, 1947, stating that he owed the late Mrs. Michal the sum of 57,663 crowns which she had left with him in 1940. Claimant has provided no evidence or information, however, regarding the nationalization of any of the property by the Government of Czechoslovakia.

As was pointed out to the claimant in a letter from the Commission staff dated January 27, 1983, the Commission determined in its decision on her and her mother's claim under Title II of the War Claims Act of 1948, as amended (Public Law 87-846, approved October 22, 1962), that all of their personal property, with the exception of "various paintings, pictures, objets d'art, a stamp collection, and jewelry," was lost as a result of military action during World War II, and granted an award ultimately totalling \$17,500 for that loss. Claim of MARIA A. MICHAL and MARIA E. MICHAL, Claim No. W-9918, Decision No. W-21049 (1977). In view of this determination, she was advised that the Commission would have no basis upon which to award further compensation for the property lost during the war. Furthermore, she was advised that it would have no authority under the present claims statute to grant an award for any of the other articles of property unless evidence was submitted to establish that they were nationalized or otherwise taken by the Czechoslovakian Government after August 8, 1958.

With regard to the claim for bank accounts, it was pointed out in the letter that those accounts were included in the claim which claimant and her mother had filed against Czechoslovakia under Title IV of the International Claims Settlement Act of 1949, as amended (Public Law 85-604, approved August 8,

1958). As was also pointed out, however, the Commission determined that, so far as the record showed, two of the three accounts existed only as debt obligations owed her mother by two friends, a Vladimir Rodovsky (mentioned above) and a Marie Baxantova, and thus did not constitute "property," within the meaning of the claims statute, and the third account had not been taken but continued to exist in Czechoslovakia in a "blocked" status. Claim of MARIE A. MICHAL and MARIA E. MICHAL, Claim No. CZ-3396, Decision No. CZ-3381 (1962).

In view of this determination, claimant was advised that the portion of her claim involving the loss of bank accounts likewise did not appear compensable under the present claims statute. However, she was also advised that the Commission would consider any additional evidence or information she wished to submit regarding the asserted existence and loss of the accounts said to be represented by Mr. Rodovsky's and Mrs. Baxantova's indebtedness to her late mother, or regarding the asserted nationalization of her mother's account in the Czechoslovak State Bank.

Claimant responded to the staff's letter in a reply dated February 23, 1983, but submitted no new supporting documentation or other evidence. Rather, she merely reiterated the assertion that the debts owed by Mr. Rodovsky and Mrs. Baxantova were in fact "property" taken by the Czechoslovakian Government, based on the fact that they had registered the debts with the Czechoslovakian authorities after World War II. As for the account in the Czechoslovak State Bank, she stated the contention that the blocking of the account, "without any right to have access or any disposition over [the account], clearly classifies such an unlawful act by a foreign government as confiscation or other taking of property, [which] is also a flagrant violation of international law by violating the respective reciprocity." However, she cited no legal authority of any kind as the basis for this contention.

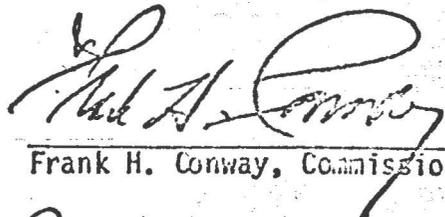
Having again reviewed the record herein, the Commission must conclude that there is no basis for a finding that any of the personal property on which this claim is based was nationalized or otherwise taken by the Government of Czechoslovakia after August 8, 1958, the beginning of the loss period covered by the present Act. With regard to the bank accounts which are claimed for, the Commission reaffirms its previous determination that the existence and taking of the two accounts assertedly opened by claimant's late mother's friends, Mr. Rodovsky and Mrs. Baxantova, has not been established, and that the account in the Czechoslovak State Bank has not been nationalized or otherwise taken by the Czechoslovakian Government, but instead remains in existence as a blocked account.

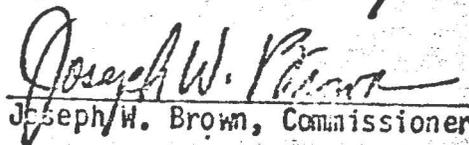
For the above stated reasons, this claim must be and it is hereby denied.

Utilizing a provision in the U.S.-Czechoslovak claims settlement agreement of 1982, the Commission transmitted a request to the Czechoslovakian Government through diplomatic channels in early 1983 for further information which might more clearly establish the status of claimant's late mother's account in the Czechoslovak State Bank. The Commission may reopen the claimant's claim if this request, or any other source, should produce information before the statutory completion deadline of October 31, 1984, which would permit the claim for the account to be found compensable under the terms of the present Act.

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

JAN 25 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.)