

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

IN THE MATTER OF THE CLAIM OF

ALEX KOZAK

Claim No. CZ-2-1463

Decision No. CZ-2-1277

Counsel for Claimant:

Bert V. Guttman, Esquire

PROPOSED DECISION

This claim in the amount of \$50,000.00 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 loss of a house, an apartment building and a bank account in Kosice.

The evidence of record indicates that claimant became a citizen of the United States by naturalization on November 27, 1953.

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]."

Claimant has asserted the loss of a mixed residential and commercial building at Sverdlovova Street No. 17 (formerly Masiarska Street) in Kosice; a house and yard on Ivan Olbracht Street No. 16 in Kosice; and a bank account containing 58,269.20 crowns.

The evidence of record in this claim establishes that the two buildings in Kosice were owned by the claimant's wife, Katerina Gelman, a United States citizen from November 7, 1952. When Katerina Gelman died on March 8, 1980, the claimant inherited her rights to the subject property, as her sole testamentary heir.

With respect to the taking of the subject property, claimant has submitted a decision of the Municipal Court in Kosice stating that the ownership of the real property at Sverdlovova Street No. 17 was transferred to the Czechoslovak State pursuant to a decision of the Finance Department of the Town National Committee in Kosice, dated August 7, 1972. Accordingly, the Commission finds that this property was taken by the Czechoslovak government as of that date and that claimant is entitled to an award for its loss.

With respect to the property at Ivan Olbracht Street No. 16, a letter from the Finance Section of the National Committee of the City of Kosice states that the property was expropriated by a decision dated June 6, 1963. As compensation for the taking of this property, funds in the amount of 58,269.20 crowns were deposited in an account in the name of Katerina Gelman. However, a decision of the State Notariat in Kosice transferred the funds, as of December 31, 1973, to the Finance Section of the National Committee of the City of Kosice, where they remained "for the benefit of the Czechoslovak State."

The Commission has, in certain cases, considered that the payment of funds into a bank account by the Czechoslovak government for the taking of property constitutes partial or total compensation for the expropriation of the property, and has deducted that amount from awards granted for the loss of the same property. Such would be the case with the placing of the 58,269.20 crowns in an account for Katerina Gelman. However, because the evidence of record establishes that this account was

taken shortly after the depositing of the funds into it, the Commission will consider that the taking of the property on Ivan Olbracht Street was one in which no compensation was effectively paid by the Czechoslovak Government. Accordingly, it concludes that no award may be granted for a loss of the bank account, but that claimant is entitled to an award for the full value of the property on Ivan Olbracht Street, taken by the Czechoslovak Government on June 6, 1973.

With respect to the value of the property at Sverdlovova Street, the evidence of record indicates that the property consisted of a three-story building constructed around a center court, with two stores on the ground floor and six apartments on the two upper floors. The building covered an area of 579 square meters, or approximately 1/7 of an acre. An appraisal done by a Czechoslovak expert, submitted by the claimant, indicated that the building was constructed prior to 1900 and that additions and reconstructions were carried out in 1929. After that date, only minor upkeep was performed on the building.

The document from the Municipal Court in Kosice which announced the taking of the subject property stated that the property had been appraised by the Town National Committee at 52,019.30 crowns. That sum, converted at the official exchange rate in force in 1972, equals \$7,905.00. The appraisal done by the Czechoslovak expert valued the building at 1,313,180 crowns. This figure, however, was based upon 1928 property values; converted at the 1928 exchange rate of 33.33 crowns to one dollar, the figure equals \$39,399.00. The appraiser also amortized the building at a rate which gave rise to a value, in 1972, of approximately \$22,500.00. In addition to the values indicated by the two Czechoslovak appraisals, claimant submitted a photograph of the subject property.

Taking into account all the evidence of record, including the age of the building, its size, the two appraisals and the photograph, the Commission finds that it had a value of \$16,000.00 on the date of loss. Claimant ALEX KOZAK is therefore entitled to an award in this principal amount under the Act.

With respect to the value of the second piece of property, the house and land at Ivan Olbracht Street, the Czechoslovak government had paid compensation in the amount of 58,269.20 crowns for the property, or \$9,760.00. Claimant stated that this property was substantially smaller than the property at Sverdlovova Street and indicated that it had approximately 1/7 of the value of the larger property. Taking into account all the evidence of record, the Commission finds that the property at Ivan Olbracht Street No. 16 had a value of \$11,000.00 on the date of loss. Claimant ALEX KOZAK is therefore entitled to an award for the loss of this property under the Act.

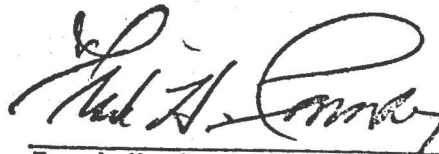
The Commission has concluded that in granting awards under subsection 5(a) of Public Law 97-127, for the nationalization or other taking of property, interest shall be allowed at the rate of 6% simple interest per annum from the date of loss to February 2, 1982, the date the claims settlement agreement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

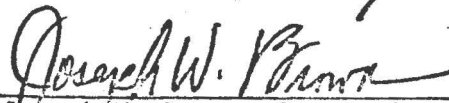
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Claimant ALEX KOZAK is therefore entitled to an award in the principal amount of Twenty-Seven Thousand Dollars (\$27,000.00), plus interest at the rate of 6% simple interest per annum on Sixteen Thousand Dollars (\$16,000.00) from August 7, 1972 to February 2, 1982 in the amount of Nine Thousand One Hundred Twelve Dollars (\$9,112.00), and interest on Eleven Thousand Dollars (\$11,000.00) from June 6, 1973 to February 2, 1982 in the amount of Five Thousand Seven Hundred Fifteen Dollars (\$5,715.00), for a total award of Forty-One Thousand Eight Hundred Twenty-Seven Dollars (\$41,827.00).

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

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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