

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

IN THE MATTER OF THE CLAIM OF

GEZA SCHWARTZ

Claim No. CZ-2-1537

Decision No. CZ-2-1062

PROPOSED DECISION

This claim in the asserted amount of \$239,280.00 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 in Folvark and in Kezmarok, personal property and other losses.

Claimant acquired United States nationality by naturalization on March 22, 1955.

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.

At the time of filing this claim, claimant stated that the real property involved was taken by the Government of Czechoslovakia pursuant to Decree No. 49 on July 9, 1959.

In support of his claim, claimant has submitted copies of extracts from the land register for Folvark and an extract from the land register for Kezmarok, both dated in 1946. No documentation has been submitted to establish that any of the properties claimed or listed on the land register extracts were nationalized or otherwise taken by the Government of Czechoslovakia after August 8, 1958, as required for compensation under subsection 5(a) of the Act, above.

By letter dated January 19, 1983, claimant was advised that it would be in his interest to obtain and submit documentation to establish the date and manner of the taking of the property on which his claim was based. No evidence or response to the Commission's letter having been received, by letter dated August 15, 1983, claimant was advised that under the Commission's regulations he had the burden of submitting evidence to establish a compensable loss. Claimant was further advised that the Commission may have to act on his claim within 60 days from the date of the letter and that therefore any additional evidence or information he wished the Commission to consider in reaching a determination on his claim should be received by the Commission within 60 days from the date of the letter.

In response, claimant submitted a copy of Czechoslovakian Decree No. 49/1959 in the Czechoslovakian language. Claimant stated that it was his understanding that the property in question had been taken under this decree.

The Commission has reviewed the Decree No. 49/1959 and finds that this decree does not act directly on specific properties. The decree itself is directed to cooperative farming. It provides for turning over land and other means of productions to the cooperative farms and provides for membership in the cooperative farms as well as procedures for the relations between cooperative farms and the state government. In and of itself, this decree does not effect the transfer of title to real property. Accordingly, the Commission finds that the record in this claim still does not contain any basis for determining the date or manner by which the specific property on which this claim is based was nationalized or otherwise taken by the Government of Czechoslovakia.

Subsection 531.6(d) of the Commission's regulations provides:

"The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim"

Based upon the foregoing, the Commission finds that claimant has not met the burden of proof in that he has not submitted evidence or information from which the Commission could reasonably conclude that the property on which his claim is based was

nationalized or otherwise taken by the Government of Czechoslovakia after August 8, 1958 as required for compensation under subsection 5(a) of the Act, above.

The Commission notes that a portion of this claim is based upon the loss of a bank account in the amount of 3,110.00 Czechoslovakian crowns in the Agricultural Savings Bank in Kezmarok. From the evidence submitted, it appears that this account was established prior to November 15, 1945. The Commission has reviewed the laws of Czechoslovakia enacted after World War II and finds that bank accounts established prior to November 15, 1945 were frozen and subsequently canceled under Decree No. 41/1953. The Commission has held that such cancellation constituted a taking of the accounts in 1953, and therefore prior to August 8, 1958. The evidence submitted by the claimant regarding this bank account indicates that the first entry in the deposit book was made on November 14, 1945 and that subsequent withdrawals were recorded until July of 1946, leaving a balance on that date of 3,110.00 crowns. While it is possible that this account was not immediately frozen after November 15, 1945, there is no evidence of record after July of 1946 to indicate that the account remained active or was taken after August 8, 1958.

The Commission also notes that claimant stated at the time of filing that the personal property claimed was abandoned in 1946. No evidence that this property was taken after August 8, 1958 has been submitted.

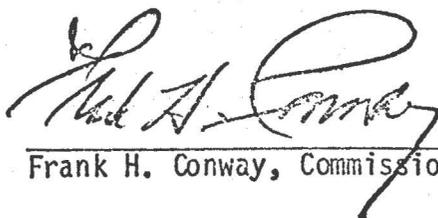
Accordingly, since the record in this claim contains no evidence to establish that any of the property claimed was taken after August 8, 1958 as required for compensation under subsection 5(a) of the Act, above, the Commission concludes that this claim must be and it is hereby denied in its entirety.

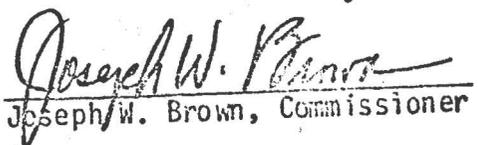
The Commission finds it unnecessary to make determinations with respect to other aspects of this claim.

While the record in this matter does not establish a compensable loss, nevertheless, the Commission has sent a request to the Government of Czechoslovakia for information and evidence concerning this claim. To date, however, no response has been received. If a response is received prior to the October 31, 1984 deadline for the completion of the current program for losses in Czechoslovakia and if a change in the Commission's determination is warranted, this matter may be reopened by the Commission on its own motion.

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

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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