

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

IN THE MATTER OF THE CLAIM OF

AGNES OKENKA
FRANK OKENKA

Claim No. CZ-2-0506

Decision No. CZ-2-1118

Hearing on the Record held on **APR 26 1984**

FINAL DECISION

This claim in the amount of \$125,000.00 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 improved real property and land in Mala Vrbka, Tvarozna Lhota, and Hrubá Vrbka.

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 February 21, 1984, the Commission denied this claim on the ground that no property owned by claimants had been nationalized or otherwise taken after August 8, 1958.

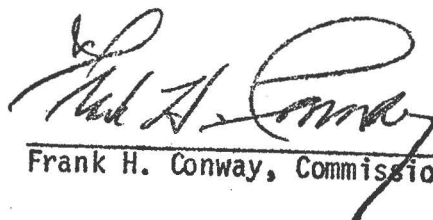
By letter dated February 27, 1984, claimants objected on the record to the Proposed Decision. Claimant states that the Commission only concerned itself with two houses, Nos. 79 and 82, and ignores the "vast tracts of land" for which claim was filed. Claimants then continued to assert that this farmland was taken.


The Commission, as set forth in the Proposed Decision, agrees that the farmland was taken. The Commission's decision makes reference to some 4.29 hectares of land owned by claimant, Frank Okenka, and 112 hectares of land owned by Agnes Okenka, and finds, based upon a report from the government of Czechoslovakia, that it was taken in 1955. As this property was taken prior to August 8, 1958, however, the Commission is not authorized to make an award for this loss under Public Law 97-127.

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

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

APR 26 1984


Frank H. Conway, Commissioner


Joseph W. Brown, Commissioner

This is a true and correct copy of the decision
the Commission which was entered as the final
decision.

CZ-2-0506

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IN THE MATTER OF THE CLAIM OF

AGNES OKENKA
FRANK OKENKA

Claim No. CZ-2-0506

Decision No. CZ-2-1118

PROPOSED DECISION

This claim in the amount of \$125,000.00 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 improved real property and land in Mala Vrbka, Tvarozna Lhota, and Hrubá Vrbka.

FRANK OKENKA was born in Toledo, Ohio on November 5, 1906 and has therefore been a lifelong citizen of the United States. AGNES OKENKA acquired United States citizen by naturalization on May 13, 1949.

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.

The evidence of record, which includes a report from the Czechoslovakian Government dated October 5, 1983, establishes that FRANK OKENKA and AGNES OKENKA, husband and wife, each acquired some individual property in Czechoslovakia during the 1920's and 1930's. FRANK OKENKA was the owner of some 4.29 hectares of land and a house (no. 79) in Mala Vrbka, as well as 5,172 square meters of land in Tvarozna Lhota. AGNES OKENKA was the owner of house no. 82 and approximately 112 hectares of land in Hrubá Vrbka.

According to the report from the Czechoslovakian Government, all of the foregoing land was placed in the use of a socialist organization in 1955 pursuant to decree no. 50/1955. There is no evidence that the claimants have exercised any control over the land since 1955 or enjoyed any other fruits of ownership since then. Therefore, the Commission finds that the land involved in this claim was taken by the Government of Czechoslovakia in 1955. Since subsection 5(a) of Public Law 97-127 authorizes the Commission to grant awards only for losses which occurred after August 8, 1958, the loss of the subject land in 1955 is not compensable under the Act. This part of the instant claim must therefore be denied.

The report from the Czechoslovakian Government indicates that house no. 82 in Hrubá Vrbka, together with an adjoining garden and barn, were sold by claimant AGNES OKENKA in 1978. The deed was dated August 23, 1978 and is registered at the State Notary in Hodonin. AGNES OKENKA has provided no information about this transaction and there is no evidence in the record to indicate that it was not freely negotiated or that she did not receive compensation therefor. Accordingly, the Commission finds that this property has not been the subject of a nationalization or other taking by the Government of Czechoslovakia within the meaning of subsection 5(a) of Public Law 97-127. Therefore, the part of this claim based on house no. 82 with adjoining garden and barn in Hrubá Vrbka must also be denied.

As far as FRANK OKENKA's house no. 79 in Malá Vrbka is concerned, the report from the Czechoslovakian Government states that this property is being used by a local resident in accordance with decree no. 41/1964. This act, issued on February 26, 1964 and entitled "Concerning the Management of Flats," was designed to assure the maximum use of residential units in Czechoslovakia by providing a mechanism for the assignment of dwelling space that is not fully utilized by the owners of the property or their families to other persons or entities in Czechoslovakia. The decree did not affect an owner's legal title to the property,

however, and included provisions allowing the owner or various members of his family to reoccupy the dwelling unit themselves. Thus, FRANK OKENKA remains the record titleholder to house no. 79 in Mala Vrbka and would appear to retain significant ownership rights in the property.

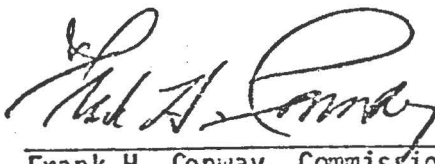
The Commission concludes, therefore, that the use of house no. 79 in Mala Vrbka by a local resident in accordance with decree no. 41/1964 does not constitute a nationalization or other taking of this property by the Czechoslovakian Government. The record contains no other evidence of any action taken against the house between August 8, 1958 and February 2, 1982 which could be construed as a nationalization or other taking by the Government of Czechoslovakia. In fact, the claimants indicated in a letter to the Commission dated September 29, 1982 that the subject house "has not been taken as far as we know."

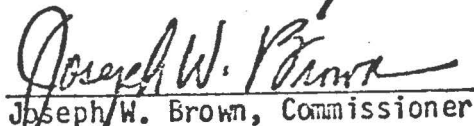
Thus, the record does not establish the nationalization or other taking of house no. 79 in Mala Vrbka between August 8, 1958 and February 2, 1982, as required for compensation under subsection 5(a) of Public Law 97-127. This part of the instant claim, therefore, must also be denied.

Accordingly, the Commission finds that this claim must be and it hereby is denied in its entirety. The Commission finds it unnecessary to make determinations with respect to other aspects of the claim.

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

FEB 21 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.)