

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

IN THE MATTER OF THE CLAIM OF

ALBERT P. ZUBAK
MATTHEW A. ZUBAK

Claim No. CZ-2-0576

Decision No. CZ-2-0416

Hearing on the record held on January 23, 1984

FINAL DECISION

This claim in the amount of \$80,050.00 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 two farms with associated machinery and livestock, other business property, household furnishings, and assorted items of personalty, all located in Huncovce.

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 September 22, 1983, the Commission denied this claim on the ground that, according to the information provided by claimant, the property was confiscated in 1946.

By letter received October 6, 1983, claimants objected and requested an oral hearing. By letter dated December 19, 1983, claimants were informed that the oral hearing had been set for 2 p.m. on January 23, 1984.

By postcard, claimants informed the Commission that they would not attend the oral hearing and that they wished the matter to be heard on the record. Therefore, the Commission has so considered the matter and has reviewed the entire file.

By letter dated October 3, 1983, claimants set forth two grounds for their objection, as follows:

1. The confiscation of our property by the Czechoslovakian government should be deemed a continuing act that had the same effect in 1958 as it did in 1946, thus bringing this claim within the purview of the Czechoslovakian Claims Settlement Act of 1981.
2. This claim falls within the purview of the Czechoslovakian Claims Settlement Act of 1981 by virtue of Section 6(b) of that act because we were denied compensation under the previous claims settlement.

The Commission notes from the nature of the two objections that claimants do not appear to dispute the fact that the Government of Czechoslovakia, in fact, took their property in 1946.

Neither contention made by claimants is meritorious. Under Public Law 85-604, the Commission, in 1958, was authorized to determine the validity of claims for losses which occurred between January 1, 1945 and August 8, 1958. That program was concluded in 1962. Under Public Law 97-127, the Commission was authorized to determine claims for losses which arose between August 8, 1958 and February 2, 1982. Each statute required for a claim to be compensable that the property be owned by a United States national ". . . on the date of nationalization or other taking thereof. . . ." The entire statutory scheme for the adjudication of claims against Czechoslovakia, as well as the

specific directions of the statute, would be meaningless, if the Commission were to consider that all nationalization of property by the Government of Czechoslovakia constituted a continuing act which continued, presumably, indefinitely.

Claimants' second contention that a claim falls within the purview of section 6(b) of Public Law 7-127 is not supported by a reading of the terms of that section. Section 6(b) directed the Commission to reopen and redetermine any claim ". . . which was filed with the Commission in accordance with the provisions of Title IV of the International Claims Settlement Act of 1949, which was based on property found by the Commission to have been nationalized or taken by the Government of Czechoslovakia on or after January 1, 1945 and before February 26, 1948, and which was denied by the Commission because such property was not owned by a person who was a national of the United States on the date of such nationalization or taking." The conditions set forth in the statute to allow redetermination are not met by claimants. They did not file a claim under Title IV of the International Claims Settlement Act of 1949 and therefore received no previous denial from the Commission in that program on the grounds set forth as above quoted. Therefore, the Commission has no authority under that section to find this claim compensable.

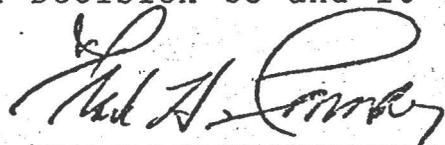
For the above reasons, the Commission has no alternative but to affirm its original denial as its final determination of this claim.

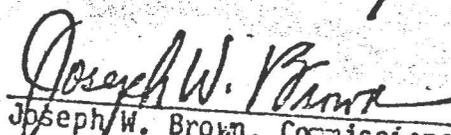
Accordingly, it is

ORDERED that the Proposed Decision be and it is hereby denied.

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

JAN 23 1984


Frank H. Conway, Commissioner


Joseph W. Brown, Commissioner

CZ-2-0576

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

ALBERT P. ZUBAK

MATTHEW A. ZUBAK

Claim No. CZ-2-0576

Decision No. CZ-2-0416

PROPOSED DECISION

This claim in the amount of \$80,050.00 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 two farms with associated machinery and livestock, other business property, household furnishings, and assorted items of personalty, all located in Huncovce.

The record indicated that claimant MATTHEW A. ZUBAK acquired United States citizenship by naturalization on January 6, 1929 and that claimant ALBERT P. ZUBAK acquired United States citizenship by naturalization on January 8, 1932.

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 record includes copies of two purchase agreements indicating that the claimants' parents, Johann and Elisabetha Zubak, acquired various property in Huncovce in 1920 and 1936, including at least one house and numerous plots of agricultural land. The claimants assert that their parents also owned a two-story building housing a cabinet making shop and grain storage facilities, as well as assorted farm machinery, livestock, household furnishings, and other items of personal property. The claimants indicate that they and their parents, despite the fact that they were United States citizens, were expelled from Czechoslovakia because they were ethnic Germans in the spring of 1946, at which time all of the family's property was confiscated. The Commission notes that the Government of Czechoslovakia issued two decrees in 1945 providing for the expulsion of ethnic Germans from the country and the confiscation of their property.

Based on the foregoing evidence, the Commission finds that the property on which the instant claim is based was taken by the Czechoslovakian government in 1946. Since subsection 5(a) of the Act authorizes the Commission to grant awards only for losses which occurred after August 8, 1958, the loss of property in 1946 is not compensable under the Act. Therefore, the Commission finds that this claim must be and hereby is denied.

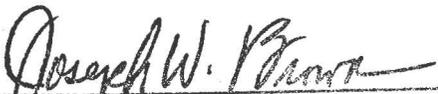
The Commission notes that if this claim had been filed prior to September 15, 1959 in the Commission's first Czechoslovakian program under Public Law 85-604, which compensated eligible claimants for losses occurring prior to August 8, 1958, the claim might have been compensable. The Commission

recognizes that some potential claimants did not file in the first program and may not have become aware of its existence, despite the extensive publicity given to the program. Under the Czechoslovakian Claims Settlement Act of 1981, however, the Commission has no authority or discretion to make exceptions for such cases.

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

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.)