

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

ZUZANA FILKO  
158 Brill Street  
Newark, New Jersey

Claim No. CZ-4,583

Decision No. CZ- 55

Under the International Claims Settlement  
Act of 1949, as amended

GPO 16-72126-1

Counsel for Claimant:

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Jersey City, New Jersey

PROPOSED DECISION

This is a claim under Section 404, Title IV of the International Claims Settlement Act of 1949, as amended, (Public Law 85-604) by ZUZANA FILKO who became a national of the United States by naturalization on April 28, 1958.

The claim is based on the asserted nationalization or other taking by the Government of Czechoslovakia in October 1958 of claimant's interest in real property situated in Porubka, Czechoslovakia.

Title IV of the Act was enacted on August 8, 1958. Section 404 thereof provides that:

"The Commission shall 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 Czechoslovakia for losses resulting from the nationalization or other taking on and after January 1, 1945, of property including any rights or interests therein owned at the time by nationals of the United States subject however, to the terms of an applicable claims agreement, if any, concluded between the Governments of Czechoslovakia and the United States within one year following the date of the enactment of this Title.---"

CZ-7

A year having expired since the date of enactment of Title IV, and no applicable claims agreement having been concluded between the Governments of Czechoslovakia and the United States, the contingency provided for in the event such agreement had been concluded has no application in the determination of claims under Title IV.

The question here presented is whether or not a claim under Section 404, Title IV, is compensable where property or any right or interest therein is nationalized or otherwise taken by the Government of Czechoslovakia after August 8, 1958, assuming, of course, that other elements of eligibility have been satisfactorily established by a claimant.

Under the rules of statutory construction, statutes framed in general terms are ordinarily construed prospectively so as to apply to things coming into existence subsequent to their enactment. However, this rule does not apply to new things or conditions which are not within the logical and natural intent of the statute; nor does it apply to things and conditions the nature of which was known at the time of the enactment of the statute and not specifically included therein.<sup>1/</sup> Since Title IV does not specifically provide for the rendition of awards based on losses sustained subsequent to the date of its enactment, it is incumbent on the Commission to ascertain Congressional intent with respect to this matter.

The history of the legislation shows that Congress was aware of the fact that not all privately American owned property in Czechoslovakia had been nationalized by that government as of August 8, 1958. This is evidenced by the reports submitted by the Senate and

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<sup>1/</sup> Corp. Jur. Sec., Vol. 82, pp 558, 559.

House Committees,<sup>2/</sup> from which it is abundantly clear that it was intended that benefits shall inure to United States nationals only in cases where, among other things, losses had been sustained prior to the enactment of Title IV, e.g.:

"The principal purpose of S. 3557 (Public Law 85-604) is to provide a Czechoslovakian Claims Fund out of which to compensate United States citizens whose property was nationalized or otherwise taken subsequent to World War II by the Government of Czechoslovakia . . ." (p. 1 of Senate Report).

"Until now, provision has not been made for United States citizens who sustained losses of property in Czechoslovakia . . . . The Department of State has pressed, but without avail, the claims of United States nationals whose property was seized in Czechoslovakia . . ." (p. 2 of Senate Report).

"As already noted, the Czechoslovakian Claims Fund is intended to benefit those Americans who lost property as a result of postwar Czechoslovakian nationalization policies . . ." (p. 3 of Senate Report).

"Until now, compensation has not been provided for United States citizens who sustained losses of property in Czechoslovakia . . . . The Department of State has pressed, but without avail, the claims of United States nationals whose property was seized in Czechoslovakia." (p. 2 of House Report).

"The primary purpose of S. 3557 is to compensate Americans who lost their properties in Czechoslovakia through nationalization or other taking by postwar governments of that country." (p. 4 of House Report).

"Any type of property, or any right or interest therein would be included, if it were owned by a national of the United States--and if it was in fact nationalized or otherwise taken by Czechoslovakia." (p. 6 of House Report) (Underscoring supplied).

The reports of the Committees were favorably acted upon by the Congress without debate or amendment. It would thus appear that, in enacting Title IV, Congress adopted the recommendations of the respective committees and intended to restrict eligibility for compensation, insofar as the time of nationalization or other taking is concerned, to claimants who sustained losses as the result of nationalization or other

<sup>2/</sup> Senate Committee on Foreign Relations, Report No. 1794, 85th Congress, 2d Session, dated July 2, 1958. House of Representatives Committee on Foreign Affairs, Report No. 2227, 85th Congress, 2d Session, dated July 18, 1958.

taking which occurred on or prior to the date of approval of the Act -- that is to say, prior to August 8, 1958. To hold otherwise would be at variance with the pattern of the legislation as a whole.

It is also noted that the Congress was aware of the fact that the "Czechoslovakian Claims Fund"<sup>3/</sup> would, in any event, satisfy but a minor percentage of the losses which had already been sustained by American nationals.<sup>4/</sup>

That the Congress did not intend an "open end" as to the date of nationalization or other taking is evidenced by Section 412 of the Act which directs the Commission to complete its affairs in connection with the settlement of claims pursuant to Title IV not later than three years following the final date for the filing of claims. This mandate was based on the anticipated "claim load" at the time of the enactment of the statute -- that is to say -- on potential claims then in existence.<sup>5/</sup> Additionally, the Commission was directed by the statute to give public notice within 60 days of the enactment date or of appropriation legislation in the Federal Register "of the time when and the limit of time within which claims may be filed, which limit shall not be more than twelve months after such publication." (Underscoring supplied).

An "open end" construction of the statute could conceivably place the Commission in the paradoxical position of advising United States nationals whose properties were taken subsequent to the filing deadline date that while their claims are within the scope of the statute, substantively speaking, nevertheless their failure to file claims before they arose bars them from a remedy. Obviously, such a result cannot be attributed to Congress.

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<sup>3/</sup> Section 402(b).

<sup>4/</sup> Page 2 of Senate Report.

<sup>5/</sup> Page 2 of Senate Report and page 2 of House Report.

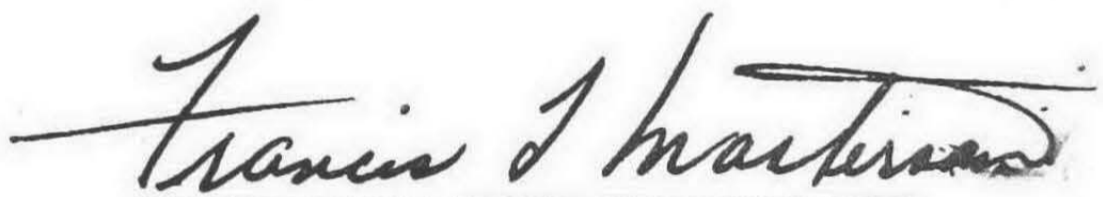
In view of the foregoing, the Commission concludes that Section 404, Title IV of the Act, encompasses solely those claims for losses resulting from the nationalization or other taking of property of nationals of the United States, including any rights or interests therein, which occurred between January 1, 1945 and August 8, 1958.

Since this claim is based on nationalization or other taking subsequent to August 8, 1958, it must be and hereby is denied. The Commission, therefore, finds it unnecessary to make determinations with respect to other elements in this claim.

Dated at Washington, D. C.

DEC 15 1959

BY DIRECTION OF THE COMMISSION:



Francis T. Masterson  
Clerk of the Commission