

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

IN THE MATTER OF THE CLAIM OF

BARNEY CAPEK
48-24-58 Lane
Woodside Long Island
New York

Claim No. CZ-2042

Decision No. CZ- 210

Under the International Claims Settlement
Act of 1949, as amended

GPO 942329

PROPOSED DECISION

This is a claim in the amount of \$3,991.61 against the Government of Czechoslovakia under Section 404, Title IV, of the International Claims Settlement Act of 1949, as amended, by BARNEY CAPEK, a national of the United States by naturalization in the United States September 17, 1943.

The claim is based on the nationalization or other taking of a deposit in the Sparkasse Sporitelna of Strakonice and a deposit in the Sporitelna a Zalozni Spolek of Krastovice, Czechoslovakia.

Section 404 of the Act provides, inter alia, for the determination by the Commission, in accordance with applicable substantive law, including international law, of 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.

Clearly then, it follows from the congressional mandate to the Commission that there must be a showing, among other things, that the Government of Czechoslovakia nationalized or otherwise took property

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of a claimant in order for the Commission to act favorably on his claim. A study of the history of events with respect to bank accounts and savings accounts in Czechoslovakia reveals that pursuant to Law 41/53 Sb., effective June 1, 1953, those deposits which were made prior to November 15, 1945 in old currency were annulled by the Government of Czechoslovakia.

The Commission finds that claimant's right to payment of the bank account on which this claim is based was property within the meaning of Section 401(1) of the Act which defines property as "any property, right, or interest" and the Commission further finds that this right to payment was taken by the Government of Czechoslovakia on June 1, 1953 by virtue of Section 7 of Law 41/53 Sb. which cancelled such right.

Accordingly, the Commission concludes, with respect to the instant claim, that the amount of 76,126.50 crowns which was on deposit in favor of the claimant in the Sparkasse Sporitelna and the amount of 26,427 crowns which was on deposit in favor of claimant in the Sporitelni a zalozri Spolek, Czechoslovakia, were taken without compensation by the Government of Czechoslovakia on June 1, 1953 pursuant to Law 41/53 Sb. and that claimant is entitled to compensation at the rate of \$1.00 for 50 crowns for such taking under Section 404 of the Act.

Claim is also made for one-half the amount of 39,095 crowns which represents the sum which claimant was taxed as a result of the capital levy imposed by the Government of Czechoslovakia in Law 134 of May 15, 1946.

No evidence has been submitted to establish that this amount was discriminatory as to claimant inasmuch as a like tax was imposed on all persons in the same property bracket. A sovereign state may properly impose such taxes as do not discriminate against a particular group of people or against nationals of another nation. Accordingly, so much of

the claim as is based on the property tax levy is denied.

A W A R D

Pursuant to the provisions of the International Claims Settlement Act of 1949, as amended, an award is hereby made to BARNEY CAPEK in the principal amount of Two Thousand Fifty-one Dollars and Seven Cents (\$2,051.07), plus interest thereon at the rate of 6% per annum from June 1, 1953 to August 8, 1958, the effective date of the Act, in the amount of Six Hundred Thirty-eight Dollars and Twenty-three Cents (\$638.23), in the total amount of Two Thousand Six Hundred Eighty-nine Dollars and Thirty Cents (\$2,689.30).

Dated at Washington, D. C.

FEB 17 1960

BY DIRECTION OF THE COMMISSION:



Francis T. Masterson
Clerk of the Commission

THIS DECISION WAS ENTERED AS THE COMMISSION'S
FINAL DECISION ON APR 18 1960



Clerk of the Commission