

Public Law 97-127
97th Congress

An Act

To provide for the final settlement of certain claims against Czechoslovakia, and for other purposes.

Dec. 29, 1981
[S. 1946]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Czechoslovakian
Claims
Settlement Act
of 1981.

SHORT TITLE

SECTION 1. This Act may be cited as the "Czechoslovakian Claims Settlement Act of 1981".

22 USC note
prec. 1642.

APPROVAL OF AGREEMENT

SEC. 2. (a) The Congress hereby approves the Agreement between the Government of the United States of America and the Government of the Czechoslovak Socialist Republic on the Settlement of Certain Outstanding Claims and Financial Issues, initialed at Prague, Czechoslovakia on November 6, 1981.

22 USC note
prec. 1642.

(b) The President may, without further approval by the Congress, execute such technical revisions of the Agreement approved by subsection (a) of this section as in his judgment may from time to time be required to facilitate the implementation of that Agreement. Nothing in this subsection shall be construed to authorize any revision of that Agreement to reduce any amount to be paid by the Government of the Czechoslovak Socialist Republic to the United States Government under the Agreement, or to defer the payment of any such amount.

DEFINITIONS

SEC. 3. For the purposes of this Act—

22 USC note
prec. 1642.

(1) "Agreement" means the Agreement on the Settlement of Certain Outstanding Claims and Financial Issues approved by section 2(a) of this Act;

(2) "national of the United States" has the meaning given such term by section 401(1) of the International Claims Settlement Act of 1949;

22 USC 1642.

(3) "Commission" means the Foreign Claims Settlement Commission of the United States;

(4) "Fund" means the Czechoslovakian Claims Fund established by section 402(b) of the International Claims Settlement Act of 1949;

22 USC 1642a.

(5) "Secretary" means the Secretary of the Treasury; and

(6) "property" means any property, right, or interest.

THE FUND

SEC. 4. (a) The Secretary shall cover into the Fund the amount paid by the Government of the Czechoslovak Socialist Republic in settlement and discharge of claims of nationals of the United States

22 USC note
prec. 1642.

22 USC 1642.

22 USC 1642a.

Accounts
establishment.

22 USC 1642i.

22 USC note
prec. 1642.Nationality
requirements.
22 USC note
prec. 1642.

pursuant to article 1(1) of the Agreement, and shall deduct from that amount \$50,000 for reimbursement to the United States Government for expenses incurred by the Department of the Treasury and the Commission in the administration of this Act and title IV of the International Claims Settlement Act of 1949. The amount so deducted shall be covered into the Treasury to the credit of miscellaneous receipts. The deduction required by this subsection shall be made in lieu of the deduction provided in section 402(e) of the International Claims Settlement Act of 1949; however, it is the sense of the Congress that the United States Government is entitled to a larger percentage of the total award (generally presumed to be 5 percent) and that the ex gratia payment hereinafter provided to certain claimants, who were otherwise excluded from sharing in this claims settlement under generally-accepted principles of international law and United States practice, is justified only by the extraordinary circumstances of this case and does not establish any precedent for future claims negotiations or payments.

(b) The Secretary shall establish three accounts in the Fund into which the amount covered into the Fund pursuant to subsection (a) of this section, less the deduction required by that subsection, shall be covered as follows:

(1) An account into which \$74,550,000 shall be covered, to be available for payment in accordance with section 8 of this Act on account of awards certified pursuant to section 410 of the International Claims Settlement Act of 1949.

(2) An account into which \$1,500,000 shall be covered, to be available for payment in accordance with section 8 of this Act on account of awards determined pursuant to section 5 of this Act.

(3) An account into which the remainder of amounts in the Fund shall be covered, to be available for payment in accordance with section 8 of this Act on account of awards determined pursuant to section 6 of this Act.

DETERMINATION OF CERTAIN CLAIMS

SEC. 5. (a) 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 the date on which the Agreement enters into force. In making the determination with respect to the validity and amount of any such claim and the value of the property taken, the Commission is authorized to accept the fair or proved value of such property as of the time when the property taken was last operated, used, managed, or controlled by the national or nationals of the United States asserting the claim, regardless of whether such time is prior to the actual date of nationalization or other taking by the Government of the Czechoslovak Socialist Republic.

(b) The Commission shall certify to the Secretary the amount of any award determined pursuant to subsection (a).

DETERMINATION OF OTHER CLAIMS

SEC. 6. (a)(1) The Congress finds that—

(A) in the case of certain persons holding claims against the Czechoslovakian Government who became nationals of the United States by February 26, 1948, the date on which the current Communist Government of Czechoslovakia assumed power; and

(B) while the Commission had the authority to deny those claims described in subparagraph (A) on the basis that the properties involved had been taken by the Benes Government while the claimants were not yet nationals of the United States, the effect of that denial is to withhold compensation to persons who have been United States citizens for many years and whose expropriated property has benefited the Communist Government of Czechoslovakia no less than properties expropriated more directly and clearly by the Communist Government.

(2)(A) It is therefore the purpose of this section, in accordance with the intent of the Congress in enacting title IV of the International Claims Settlement Act of 1949 and in the interests of equity, to make ex gratia payments to the claimants described in paragraph (1) of this subsection.

22 USC 1642.

(B) The Congress reaffirms the principle and practice of the United States to seek compensation from foreign governments on behalf only of persons who were nationals of the United States at the time they sustained losses by the nationalization or other taking of their property by those foreign governments. In making payments under this section, the Congress does not establish any precedent for future claims payments.

(b) The Commission shall reopen and redetermine the validity and amount of any claim against the Government of Czechoslovakia 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 provisions of section 405 of the International Claims Settlement Act of 1949 requiring that the property upon which a claim is based must have been owned by a national of the United States on the date of nationalization or other taking by the Government of Czechoslovakia shall be deemed to be met if such property was owned on such date by a person who became a national of the United States on or before February 26, 1948. The Commission shall certify to the Secretary the amount of any award determined pursuant to this subsection.

22 USC 1642d.

PROCEDURES

SEC. 7. (a) The provisions of sections 401, 403, 405, 406, 407, 408, 409, 414, 415, and 416 of the International Claims Settlement Act of 1949, to the extent that such provisions are not inconsistent with this Act, together with such regulations as the Commission may prescribe, shall apply with respect to any claim determined pursuant to section 5(a) of this Act or redetermined pursuant to section 6(b) of this Act.

22 USC note
prec. 1642.
22 USC 1642,
1642b, 1642d,
1642e-1642h,
1642m-1642o.

(b) Not later than sixty days after the date of the enactment of this Act, the Commission shall establish and publish in the Federal Register a period of time within which claims described in section 5 of the Act must be filed with the Commission, and the date for the completion of the Commission's affairs in connection with the deter-

Publication in
Federal
Register.

mination of those such claims and claims described in section 6 of this Act. Such filing period shall be not more than one year after the date of such publication in the Federal Register, and such completion date shall be not more than two years after the final date for the filing of claims under section 5. No person holding a claim to which section 6 of this Act applies shall be required to refile that claim before the Commission makes the redetermination required by that section.

PAYMENT OF AWARDS

22 USC note
prec. 1642.

22 USC 1642i.

SEC. 8. (a) As soon as practicable after the date of the enactment of this Act, the Secretary shall make payments from amounts in the account established pursuant to section 4(b)(1) of this Act on the unpaid balance of each award certified by the Commission pursuant to section 410 of the International Claims Settlement Act of 1949.

(b) As soon as practicable after the Commission has completed the certification of awards pursuant to section 5(b) of this Act, the Secretary shall make payments on account of each such award from the amounts in the account established pursuant to section 4(b)(2) of this Act.

(c) As soon as practicable after the Commission has completed the certification of awards pursuant to section 6(b) of this Act, the Secretary shall make payments on account of each such award from the amounts in the account established pursuant to section 4(b)(3) of this Act.

(d) In the event that—

(1) the amounts in the account established pursuant to section 4(b)(2) of this Act exceed the aggregate total of all awards certified by the Commission pursuant to section 5(b) of this Act, or

(2) the amounts in the account established pursuant to section 4(b)(3) of this Act exceed the aggregate total of all awards certified by the Commission pursuant to section 6(b) of this Act, the Secretary shall cover such excess amounts into the account established pursuant to section 4(b)(1) of this Act. The Secretary shall make payments pursuant to subsection (a) of this section, from such excess amounts, on the unpaid balance of awards certified by the Commission pursuant to section 410 of the International Claims Settlement Act of 1949.

(e) Payments under this section shall be made on the unpaid balance of each award which bear to such unpaid balance the same proportion as the total amount in the account in the Fund from which the payments are made bears to the aggregate unpaid balance of all awards payable from that account. Payments under this section, and applications for such payments, shall be made in accordance with such regulations as the Secretary may prescribe.

(f) In the event that—

(1) the Secretary is unable, within three years after the date of the establishment of the account prescribed by section 4(b)(1) of this Act, to locate any person entitled to receive payment under this section on account of an award certified by the Commission pursuant to section 410 of the International Claims Settlement Act of 1949 or to locate any lawful heirs, successors, or legal representatives of that person, or if no valid application for payment is made by or on behalf of that person within six months after the Secretary has located that person or that person's heirs, successors, or legal representatives; or

Publication in
Federal
Register.

(2) within six months after the Commission has completed the certification of awards pursuant to sections 5(b) and 6(b) of this Act, no valid application for payment is made by or on behalf of any person entitled to receive payment under this section on account of an award certified by the Commission pursuant to either such section,

the Secretary shall give notice by publication in the Federal Register and in such other publications as the Secretary may determine that, unless valid application for payment is made within sixty days after the date of such publication, that person's award under title IV of the International Claims Settlement Act of 1949 or this Act, as the case may be, and that person's right to receive payment on account of such award, shall lapse. Upon the expiration of such sixty-day period that person's award and right to receive payment shall lapse, and the amounts payable to that person shall be paid pro rata by the Secretary on account of all other awards under title IV of the International Claims Settlement Act of 1949 or this Act, as the case may be.

22 USC 1642.

INVESTMENT OF FUNDS

SEC. 9. The Secretary shall invest and hold in separate accounts the amounts held respectively in the accounts established by section 4 of this Act. Such investment shall be in public debt securities with maturities suitable for the needs of the separate accounts and bearing interest at rates determined by the Secretary, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities. The interest earned on the amounts in each account established by section 4 of this Act shall be used to make payments, in accordance with section 8(e) of this Act, on awards payable from that account.

22 USC note
prec. 1642.

IMPLEMENTATION OF AGREEMENT

SEC. 10. (a) If, within sixty days after the date of the enactment of this Act—

22 USC note
prec. 1642.

(1) the Government of the Czechoslovak Socialist Republic does not make the payments to the United States Government described in article 6(2) of the Agreement, or

(2) the Czechoslovak Government does not receive the gold provided in article 6(1) of the Agreement,

the provisions of this Act shall cease to be effective, and the provisions of the Agreement may not be implemented unless the Congress approves the Agreement after the end of that sixty-day period.

(b) The sixty-day period for implementation of the Agreement required by subsection (a) shall be extended by an additional period of thirty calendar days if, before the expiration of that sixty-day period, the Secretary of State certifies in writing that such extension is consistent with the purposes of this Act and reports that certification to the Speaker of the House of Representatives and to the Chairman of the Committee on Foreign Relations of the Senate, together with a detailed statement of the reasons for the extension. If at the end of that additional thirty-day period the events set forth in paragraphs (1) and (2) of subsection (a) have not occurred, the provisions of this Act shall cease to be effective and the provisions of the Agreement may not be implemented unless the Congress approves the Agreement after the end of that thirty-day period or unless the Congress, before the expiration of that thirty-day period, authorizes by joint resolution a further extension of time for implementation of the

Implementation
period,
extension.

90 Stat. 765.

Agreement. Such joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, and in the House of Representatives a motion to proceed to the consideration of such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged.

SOCIAL SECURITY AGREEMENT

Reciprocal
payments,
review.
22 USC note
prec. 1642.

Report to
Congress.

SEC. 11. The Secretary of State shall conduct a detailed review of the exchange of letters between the United States and Czechoslovakia providing for reciprocal social security payments to residents of the two countries. Such review should include an examination of the extent to which Czechoslovakia is complying with the spirit and provisions of the letters, a comparison of the benefits being realized by residents of Czechoslovakia and of the United States under the letters, and an evaluation of the basis of differences in such benefits. The Secretary of State, in consultation with the Department of Health and Human Services, shall report to the Congress, not later than six months after the date of the enactment of this Act, the results of such review, together with any recommendations for legislation or changes in the agreement made by the letters that may be necessary to achieve greater comparability and equity of benefits for the residents of the two countries. Such report should include specific assessments of the feasibility, likely effects, and advisability of terminating United States social security payments to residents of Czechoslovakia in response to inequities and incomparabilities of benefits payments under the exchange of letters.

Approved December 29, 1981.

LEGISLATIVE HISTORY—S. 1946 (H.R. 5125) (S. 754):

HOUSE REPORT No. 97-385 accompanying H.R. 5125 (Comm. on Foreign Affairs).

SENATE REPORTS: No. 97-189 (Comm. on Finance) and No. 97-211 (Comm. on Foreign Relations) both accompanying S. 754.

CONGRESSIONAL RECORD, Vol. 127 (1981):

Dec. 11, considered and passed Senate.

Dec. 15, H.R. 5125 considered and passed House; passage vacated and S. 1946, amended, passed in lieu.

Dec. 16, Senate concurred in House amendment with an amendment; House concurred in Senate amendment.