

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

IN THE MATTER OF THE CLAIM OF

OLGA SWAN
54 Brentwood Avenue
Newton Centre, Massachusetts

Claim No. HUNG-20,028

Decision No. HUNG-548

Against the Government of Hungary
Under the International Claims Settlement
Act of 1949, as amended

GPO 16-72126-1

FINAL DECISION

The Commission issued its Proposed Decision on this claim on August 7, 1957, a certified copy of which was duly served upon the claimant. The claim having come on for hearing on November 13, 1957 claimant not appearing, and full consideration having been given to claimant's objections and to the claim upon review, and general notice of the Proposed Decision having been given by posting for thirty days, it is

ORDERED that such Proposed Decision be and the same is hereby entered as the Final Decision on this claim.

Dated at Washington, D. C.

NOV 26 1957

COMMISSIONERS

Whitney Gilliland

Pearl Pace

Henry S. Clay

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PROPOSED DECISION

This is a claim under the provisions of the International Claims Settlement Act of 1949, as amended, against the Government of Hungary by OLGA SWAN for the failure of the said government to meet alleged contractual obligations with respect to certain bonds and for the value of shares of stock, and pengo currency.

Claimant alleges she holds certain League of Nations bonds, City of Budapest bonds, five shares of stock in the National Bank of Hungary, and pengo currency, and bases this claim on loss in connection with such holdings.

Section 303(3) of the Act provides that the Commission shall receive and determine the validity and amounts of claims of nationals of the United States against the Government of Hungary, among others, resulting from failure to meet obligations expressed in currency of the United States arising out of contractual or other rights acquired by nationals of the United States prior to September 1, 1939, in the case of Hungary and which became payable prior to September 15, 1947.

Claimant alleges that she acquired the bonds upon which this claim is based in part prior to July 8, 1943, the date upon which she became a national of the United States. Accordingly, and without considering whether the bonds are obligations of the Government of Hungary the part of this claim based thereon must be denied for the reason that the

bonds upon which it is based were not acquired by a national of the United States prior to September 1, 1939, as required by the Act as a condition for compensation thereunder.

Section 303(2) of the Act provides for the receipt and determination by the Commission, in accordance with applicable substantive law, including international law, of the validity and amounts of claims of nationals of the United States against the Government of Hungary, among others, arising out of the failure of such government to pay effective compensation for the nationalization, compulsory liquidation, or other taking, prior to August 9, 1955 of the property in Hungary of nationals of the United States.

It is clear, and it has been determined by the Commission^{1/} that one of the conditions which must be met before claimant can establish her entitlement to an award under Section 303 of the Act in a claim based on a stock interest in a corporation is that imposed by Section 311(b) of the Act which provides as follows—

A claim based upon an interest, direct or indirect, in a corporation or other legal entity which directly suffered the loss with respect to which the claim is asserted, but which was not a national of the United States at the time of the loss, shall be acted upon without regard to the nationality of such legal entity if at the time of the loss at least 25 per centum of the outstanding capital stock or other beneficial interest in such entity was owned, directly or indirectly, by natural persons who were nationals of the United States.

Claimant has not offered evidence of the percentage of ownership of the National Bank of Hungary represented by her stock, or other ownership interests in the corporation to establish that at the time of the alleged loss at least 25% of the corporation was owned by natural persons who were nationals of the United States. Accordingly such part of the claim as is based on a stock interest in the National Bank of Hungary must be denied for the reason that the claimant has not

^{1/} In the Matter of the Claim of Eugene L. Garbaty
Claim RUM-30,250 Decision RUM-13 (1957)

established that at least 25% of the corporation was owned by natural persons who were nationals of the United States at the time the claim allegedly arose.

Similarly it is clear, and it has been determined by this Commission^{2/} that claims based on loss sustained as a result of ownership of Hungarian currency do not fall within the provisions of the Act as it is well established that currency reform resulting in devaluation of a nation's currency is an exercise of sovereign authority which does not give rise to a cause of action against the nation in question. Moreover, claims based on foreign currency ownership do not for obvious reasons fall within the provisions of Section 303(3) which brings within its purview only obligations "expressed in currency of the United States".

For the foregoing reasons, this claim is denied.

Dated at Washington, D. C.

AUG 7 1957

FOR THE COMMISSION

Donald G. Benn
Donald G. Benn, Director
Balkan Claims Division

^{2/} In the Matter of the Claim of Irene Hill Mascotte
Claim HUNG-20,435, Decision HUNG-20 (1957)