

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

IN THE MATTER OF THE CLAIM OF

MRS. ARLINE RAY  
15916 Greenlawn Street  
Detroit, Michigan

Claim No. HUNG-20,894

Decision No. HUNG-688

Under the International Claims Settlement  
Act of 1949, as amended

GPO 16-72126-1

Counsel for Claimant:

Samuel Herman, Esquire  
Colorado Building  
Washington, D. C.

PROPOSED DECISION

This is a claim under Section 303 of the International Claims Settlement Act, as amended, for the failure of the Government of Hungary to restore or pay compensation for the taking during World War II of real and personal property located in Berehovo, formerly Beregszasz, Czechoslovakia. Claimant alleges that since 1945, the property has been nationalized and operated by Soviet authorities.

The area in which Berehovo is located was once a part of Czechoslovakia. The Treaty of Peace with Hungary, effective September 15, 1947, fixed the frontier between Hungary and the Union of Soviet Socialist Republics along the former frontier between Hungary and Czechoslovakia as it existed on January 1, 1938, thus placing Berehovo under the jurisdiction of the Union of Soviet Socialist Republics as of September 15, 1947.

Section 303(1) of the Act authorizes the Commission to receive and determine claims against the Government of Hungary for failure to restore or pay compensation for property of nationals of the United



States, as required by Articles 26 and 27 of the Treaty of Peace with Hungary. Article 26 of the Treaty provides that Hungary shall restore all legal rights and interests in Hungary of the United Nations and their nationals as they existed on September 1, 1939, and that it shall return all property of the United Nations and their nationals in Hungary as it existed on September 15, 1947, (the effective date of the Treaty of Peace), and that Hungary shall pay certain compensation to those United Nations nationals whose properties in Hungary or Northern Transylvania suffered war damage, or those whose properties in Hungary cannot be returned.

Article 27 of the Treaty provides relief with respect to property in Hungary for persons, organizations, or communities which suffered loss by reason of racial origin, religion, or other Fascist measures or persecution.

The Commission is aware of the contention that the territory here in question was a part of Hungary as a result of the occupation thereof by Hungarian Forces during World War II; and that, therefore, the taking of or damage to property by the occupying forces did occur "in Hungary". Under international law, which is applicable to claims under the Act, the only theory upon which Hungary could be considered as having acquired sovereignty over the territory in question, so that property therein could be deemed to be "in Hungary", within the meaning of the Act, is that of subjugation. It is well established that acquisition of territory by subjugation requires a formal annexation following a firmly established conquest, and that a conquest does not become firmly established so long as the armed conflict continues. (Oppenheim, International Law, Volume I, Sections 169, 210, 236, 237, 239). In this instance, the armed conflict continued until the conquest was nullified under the terms of the armistice. The Commission has concluded, therefore, that Berehovo, which was Beregszasz, Czechoslovakia, at the inception of World War II may not be considered to be in Hungary within the



contemplation of the Treaty of Peace with Hungary or Section 303(1) of the Act.

The Commission holds that it is a requirement for an award under Section 303(1) of the Act, in a claim against Hungary, that the alleged loss have occurred within the boundaries of Hungary as they existed on September 15, 1947, or in Northern Transylvania. Having concluded that Berehovo (formerly Beregszasz) was in Carpatho Ruthenia, U.S.S.R. on September 15, 1947, the Commission finds that this claim is not compensable under Section 303(1) of the Act.

Section 303(2) of the Act authorizes, inter alia, the receipt and determination of claims against the Government of Hungary for its failure to, "pay effective compensation for nationalization, compulsory liquidation, or other taking, prior to the effective date of this title, (August 9, 1955), of property of nationals of the United States in ... Hungary ...". Here, also, a claim is compensable only upon a showing, among other things, that the property in question was in Hungary, in this instance, at the time of loss. The Commission finds that Berehovo was not a part of Hungary at the time of loss and, accordingly, finds that this claim is not compensable under Section 303(2) of the Act.

Counsel for claimant contends that this claim falls within the purview of Article 26, paragraph 4(e), of the Treaty of Peace with Hungary and, accordingly, is compensable under Section 303(1) of the Act. It is urged that paragraph 4(e) is not limited to property rights or interests in Hungary, as are paragraphs 4(a), 4(b), 4(d), and other paragraphs of Articles 26 and 27 of the Treaty of Peace, but rather that it effects an extension to include losses occurring outside of Hungary.

These arguments have been carefully considered and found to be without merit. The Commission holds that all of the subparagraphs of paragraph 4 of Article 26 are not intended as substantive rules, but



rather relate to the measure of compensation for losses covered by Article 26 of the Treaty of Peace with Hungary.

For the foregoing reasons, this claim is denied.

The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

Dated at Washington, D. C.

JAN 7 1958

FOR THE COMMISSION:

Donald G. Benn

Donald G. Benn, Director  
Balkan Claims Division

MB  
WB  
AM



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FINAL DECISION

The Commission issued its Proposed Decision on January 7, 1958, denying this claim on the ground that the property involved was not in Hungary as required by the Act as a condition for compensability.

Claimant, by brief and oral argument before the Commission at a hearing held on March 20, 1958, contends that the claim is compensable under Section 303(1) because sub-paragraph 4(e) of Article 26 of the Treaty of Peace with Hungary is not limited to property rights or interests in Hungary.

Upon consideration of the claimant's contentions and examination of the Act, the Peace Treaty and the History of negotiations prior to its signing, the Commission concludes that sub-paragraph 4(e) of the Treaty is concerned with special measures, control and war-time restrictions applied to properties in Hungary owned by other than Hungarians.

Accordingly, the Proposed Decision herein is affirmed and the claim is denied.

Dated at Washington, D. C.

APR 30 1958

*Arthur Hilland*  
*Paul Lee*  
*Henry S. Clay*  
COMMISSIONERS  
*W. B.*  
*Bob*  
*H-16*