

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

IN THE MATTER OF THE CLAIM OF

ANGELA BENIS
411 Forest Avenue
Rye, New York

Claim No. HUNG-21,687

Decision No. HUNG-336

Under the International Claims Settlement
Act of 1949, as amended

GPO 16-72126-1

PROPOSED DECISION

This is a claim for twenty-six thousand dollars (\$26,000.00) plus interest, under the provisions of the International Claims Settlement Act of 1949, as amended, against the Government of Hungary by ANGELA BENIS, for loss sustained as the owner of 200 shares of stock in "Ungarische Allgemeine Kohlenbergwerk Gesellschaft, TOTIS" a company organized under laws of Hungary, as a result of the nationalization of the company.

The record shows that claimant acquired the stock which is the basis of this claim by gift in 1939, and that "Ungarische Allgemeine Kohlenbergwerk Gesellschaft, TOTIS" was nationalized by the Government of Hungary under Law No. XIII of 1946 (official gazette, June 26, 1946). Claimant alleges that she became a citizen of the United States by naturalization on July 6, 1950.

Section 303(2) of the Act provides, inter alia, 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, arising out of failure of such government to pay effective compensation for the nationalization, compulsory liquidation, or other taking, prior to August 9, 1955, of the property of nationals of the United States in Hungary.

In accordance with well established principles of international law, in order for a claim under Section 303(2) to be compensable, the property upon which a claim is based must have been owned by a national or nationals of the United States at the time of loss and the claim which arose from such loss must have been owned by a United States national or nationals continuously thereafter.

Additionally, Section 311(b) of the Act 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."

Thus, in order to come within the purview of Section 303(2), claimant must show that, at the time of the nationalization of "Ungarische Allgemeine Kohlenbergwerk Gesellschaft, TOTIS", 1/ at least 25% of its outstanding capital stock or other beneficial interest was directly or indirectly owned by natural persons who were nationals of the United States. In addition, in accordance with the above-mentioned rule of international law, it must be shown that the shares of stock on which this claim is based have been owned by a national or nationals of the United States continuously from the date of nationalization to the present time in order to establish a compensable claim under the Act.

Accordingly, this claim is denied for the reason that it was not owned by a national of the United States at the time it arose and for the

1/ This corporation also known as MAK, in 1938/39 had a capitalization of Pengoe 48,400,000 in 242,000 shares of stock of Pengoe 200 each. Assets were held by Hungarian and Swiss companies. Compass, Ungarn, 1940. Wien. Compassverlag. p.489,90.

further reason that it has not been established that at least 25% of the legal entity which directly suffered the loss on which this claim is based was owned by natural persons who are nationals of the United States.

Dated at Washington, D. C.

JUN 5 1957

FOR THE COMMISSION:

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

G.S.
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