

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

IN THE MATTER OF THE CLAIM OF

MOTION PICTURE EXPORT ASSOCIATION  
of AMERICA, INC.  
28 West 44th Street  
New York 36, New York

Claim No. HUNG-21,133

Decision No. HUNG-1652

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

GPO 16-72126-1

Counsel for Claimant:

Edmund R. Rosenkrantz, Esquire  
c/o Motion Picture Export Association of America, Inc.  
28 West 44th Street  
New York 36, New York

FINAL DECISION

The Commission issued its Proposed Decision on this claim on November 24, 1958, a copy of which was duly served upon the claimant(1). No objections or request for a hearing having been filed within twenty days after such service 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 the claim, and it is further

ORDERED that the award granted therein be certified to the Secretary of the Treasury.

Dated at Washington, D. C.

JAN 5 1959

*Whitney Gilliland*  
*Pearl Pace*  
*Robert L. Kunzig*  
COMMISSIONERS

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PROPOSED DECISION

This is a claim against the Government of Hungary under Section 303(2) of the International Claims Settlement Act of 1949, as amended, by MOTION PICTURE EXPORT ASSOCIATION of AMERICA, INC., a national of the United States within the meaning of Section 301(2) of the Act.

It appears that either in the latter part of 1946 or in early 1947 claimant obtained a license to do business in Hungary and commenced operations in that country, consisting principally of the distribution of American motion pictures appropriately adapted to Hungary by the use of foreign titles. Apparently, claimant would enter into contracts with theatre owners in Hungary who agreed to show the films in consideration of a percentage of the revenue produced.

Claimant states that pursuant to the law of 1948 providing for the nationalization of industrial enterprises, the motion picture industry was nationalized. This fact, it is asserted, caused claimant to sustain substantial losses inasmuch as the theatre owners were prevented from carrying out the terms of the contracts. Additionally, losses were sustained by reason of the fact that claimant could no longer continue its operations

in Hungary. Claimant points to the fact that as of August 21, 1948 its bank deposits aggregated the sum of 1,825,142 forints, and that as a result of the nationalization, claimant was compelled to spend amounts unproductively for the liquidation of its interests in Hungary so that as of March 17, 1955, the deposits aggregated the sum of 16,743 forints. Claimant also alleges losses with respect to these bank deposits and certain prints or films stated to have been confiscated by the Government of Hungary.

Section 303(2) of the Act authorizes the Commission to receive and determine the claims of nationals of the United States based upon the nationalization, compulsory liquidation or other taking by the Government of Hungary, among others, prior to August 9, 1955, of property of nationals of the United States in Hungary.

With respect to the portion of the claim based upon bank deposits claimant has stated that the deposits are inaccessible and for all intents and purposes have been confiscated.

The record contains no evidence of a confiscation, nationalization, compulsory liquidation, or other taking by the Government of Hungary of the bank accounts of the claimant, as distinguished from the bank which was not the property of the claimant. This is true, notwithstanding the fact that Law 1947:XXX tv., as amended, and implemented, provided for the nationalization of banking institutions and as a consequence of such provisions, accounts of certain banks were taken over by other banks. There is no evidence that the rights of depositors were curtailed or abolished by such actions.

Likewise, a prohibition against transfer of funds outside of a country is an exercise of sovereign authority which, though causing hardship to nonresidents having currency on deposit within the country, may not be deemed a "taking" of their property within the meaning of Section 303(2) of the Act.

Accordingly, the portion of the claim based upon bank deposits is denied.

Claimant states that at the time of nationalization of the motion

picture industry in Hungary it was a party to a number of existing contracts which were in the process of being executed, and when these contracts were interfered with by virtue of the nationalization, claimant's property was in effect taken. Additionally, other contracts to be performed during a later period had been obtained and were prevented from ever being executed.

The Commission is advised that the nationalization of the motion picture industry in Hungary affected concerns engaged in the production of films in Hungary, as distinguished from concerns operating theatres where the films were shown. Subsequently, the licenses of the theatre owners to do business were revoked.

There is no evidence to show that claimant's license to do business in Hungary was other than revocable pursuant to the laws of Hungary.

It is universally recognized that the granting of a license to do business is a matter "essentially of Municipal, as distinguished from International Law". 1/ Thus, a state may, as a general rule, grant, revoke, or deny a license without violating international law. Where, however, the action is coupled with a denial of justice, such as discriminations against aliens, it ripens into a claim recognized under international law. 2/ There is no showing that the revocation of claimant's license, if such occurred, was coupled with a denial of justice so as to give rise to a claim under international law.

Similarly, the fact that the Government of Hungary may have interfered with the contracts to which claimant was a party does not constitute a taking of claimant's property. As stated by a leading authority in the field of international claims:

" . . . the notion that the prevention of the fulfillment of a contract is a taking of property, goes beyond the existing limits of the law and opens up an unbounded and unexplored range of State responsibility. Even the constitutional law of the United States, with its meticulous conceptions of 'due process of law' has not gone that far." 3/

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1/ II Oppenheim, International Law 319 (Seventh Edition)

2/ Borchard, The Diplomatic Protection of Citizens Abroad, pp. 291, 334.

3/ Feller, The Mexican Claims Commission, p. 124.

Accordingly, the portions of the claim based upon contracts to show its films in theatres in Hungary, and for consequential losses stated to have resulted from the fact that claimant could no longer continue its business in Hungary after the nationalization of the motion picture industry, are denied.

The Commission deems it unnecessary to make determinations with respect to other elements of the portions of the claim denied herein.

With respect to the portion of the claim based upon the confiscation of its films by the Government of Hungary, claimant has been unable to submit evidence which fully substantiates its allegations as to ownership and the extent of its loss. Nevertheless, the Commission, not being bound by the usual rules of evidence, is persuaded that it owned some films in Hungary which were confiscated by the Government of Hungary pursuant to Decree No. 71/1950 (III. 9) M.T., of March 9, 1950, and that it has not received any compensation therefor from the Government of Hungary. Denial of this portion of the claim for the lack of corroboration under such circumstances would not, in the opinion of the Commission, be an act of justice. On the other hand, the absence of reliable evidence precludes an award for the full amount claimed. The Commission finds that the value of the property taken was Two Thousand Five Hundred Dollars (\$2,500.00) and concludes that claimant is entitled to an award under Section 303(2) of the Act.

#### A W A R D

Pursuant to the provisions of the International Claims Settlement Act of 1949, as amended, the claim is allowed in part and an award is hereby made to MOTION PICTURE EXPORT ASSOCIATION of AMERICA, INC., in the amount of Two Thousand Five Hundred Dollars (\$2,500.00) plus interest thereon at the rate of 6% per annum from March 9, 1950 to August 9, 1955, the effective date of the Act, in the amount of Eight Hundred Twelve Dollars and Fifty Cents (\$812.50).

Payment of any part of this award shall not be construed to have divested the claimant herein, or the Government of the United States on its behalf, of any rights against the Government of Hungary for the unpaid balance of the claim, if any.

Dated at Washington, D. C.

**NOV 24 1958**

FOR THE COMMISSION:

*William Barrett*  
William Barrett, Acting Director  
Balkan Claims Division

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