

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

IN THE MATTER OF THE CLAIM OF

SAMUEL WEISS
1339 Bristow Street
Bronx, New York

Claim No. HUNG-20,004

Decision No. HUNG-13

Under the International Claims Settlement
Act of 1949, as amended

GPO 16-72126-1

FINAL DECISION

This is a claim against the Government of Hungary under Section 303 of the International Claims Settlement Act of 1949, as amended, for an alleged taking of movable property by Hungarian troops in Slovenske Nove Mesto, Czechoslovakia.

In the Proposed Decision issued on January 16, 1957, the claim was held to be not compensable under Section 303(1) or Section 303(2) of the Act because the property on which it is based was not located in Hungary as it existed on September 15, 1947, or in Northern Transylvania.

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 can not 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 of persecution.

The Commission affirms its holding 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. By virtue of article 1 of the treaty, the frontier between Hungary and Czechoslovakia as of September 15, 1947, is that which existed on January 1, 1938, with minor changes of no significance herein. Finding Slovenske Nove Mesto to have been in Czechoslovakia, rather than in Hungary or Northern Transylvania, on September 15, 1947, the Commission holds this claim 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 the 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 if based upon a loss of property in Hungary. However, in the absence of any words to the contrary, such as the reference to the treaty of peace in Section 303(1), it must be held that it is the clear intention of the Congress that the loss have occurred in Hungary as it existed at the time of loss in order for a claim to fall within the purview of Section 303(2).

The claimant has objected to the Proposed Decision, alleging that at the time of loss (October 1938), Slovenske Nove Mesto was a part of Hungary, having become such through annexation. We must consider, therefore, whether, in the light of this allegation, the claim may be found compensable under Section 303(2). The Commission finds, upon investigation, that Slovenske Nove Mesto was not a part of Hungary in October 1938, and accordingly finds that this claim

is not compensable.

The dismemberment of Czechoslovakian territory began with the Munich Agreement of September 29, 1938, under which the Sudetenland was incorporated into Germany. Czechoslovakia remained a federative state composed of three autonomous divisions: Bohemia and Moravia, Slovakia, and Subcarpathia. Slovakia included an area known as the Highland Territories which, with Subcarpathia, had been lost by Hungary to Czechoslovakia under the Trianon Treaty of 1921. Slovenske Nove Mesto was within the Highland Territories, to which Hungary renewed its claims during the Munich crisis. Germany and Italy, having assumed factual control of Central Europe by the time of the Munich Agreement, determined to arbitrate Hungarian claims against Czechoslovakia. As a result, the so-called Vienna Award was issued on November 2, 1938, by the German and Italian Foreign Ministers, allotting a number of Czechoslovakian districts to Hungary, including the Highland Territories and Slovenske Nove Mesto. The Hungarian Government formally accepted the award and incorporated the Highland Territories by "Law XXXIV of 1938 concerning the Reincorporation into the Country of the Highland Territories Returned to the Hungarian Holy Crown, November 12, 1938". Some readjustment of boundaries was made as of March 13, 1939 in what purported to be a final agreement in execution of the Vienna arbitration (Order No. 102,473/1939 B.M. of the Hungarian Royal Ministry of the Interior). Thereafter, Slovenske Nove Mesto remained, at least de facto, a part of Hungary until the 1945 armistice. By article 1, paragraph 4(a), of the treaty of peace with Hungary, the decisions of the Vienna Award of November 2, 1938, were declared null and void.

Entirely apart from the question of the validity of the Vienna Award and the extent to which the Commission is bound to give it effect, it will be seen that Slovenske Nove Mesto was a part of Czechoslovakia at the time of claimant's alleged loss, which antedated both the issuance of the Award, and its acceptance and the official "reincorporation" of the territory. As early as October 10, 1938, it was reported that the Czechoslovakian Government was willing to make certain relatively small concessions to Hungary,

including the return of Slovenske Nove Mesto; and it appears that Hungarian troops crossed the border and occupied Slovenske Nove Mesto on October 11, 1938. It is well settled in international law, however, that sovereignty is not acquired by mere occupation of the territory of another nation by armed force; and there is no evidence to indicate that the Hungarian action was other than premature, in anticipation of later acquisition of sovereignty at the conclusion of then pending negotiations. The Commission does not hold that depredations committed in the interim by Hungarian troops on Czechoslovakian soil do not give rise to claims in international law against the Government of Hungary. The Commission does hold, however, that they do not give rise to compensable claims against Hungary under Section 303(2) of the International Claims Settlement Act, in view of the requirement that the loss have occurred within the borders of Hungary as they existed at the time of loss.

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

Dated at Washington, D.C.

SEP 4 1957

Whitney Gilliland

Henry S. Clay

COMMISSIONERS



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

In the Matter of the Claim of	:	
SAMUEL WEISS ✓	:	Claim No. HUNG-20,004
1339 Bristow Street ✓	:	
Bronx, New York	:	Decision No. HUNG-13
Against the Government of Hungary	:	
Under the International Claims	:	
Settlement Act of 1949, as amended.	:	

PROPOSED DECISION

This is a claim for twenty-five thousand six hundred and sixty-six dollars (\$25,666.00) under the provisions of Section 303 of the International Claims Settlement Act of 1949, as amended, against the Government of Hungary by SAMUEL WEISS, for the alleged taking by Hungarian soldiers of the stock of a grocery store and household furniture in Slovenske Novemesto, Czechoslovakia.

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 should 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 should return all property of the United Nations and their nationals in Hungary as it existed on September 15, 1947, and that Hungary should pay certain compensation to those United Nations nationals whose properties in Hungary or Northern Transylvania suffered war damage or those whose properties in Hungary could not 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 of persecution.

Thus, under Section 303(1) of Public Law 285, a United States national otherwise qualified, may receive an award for certain property losses in Hungary but he may not obtain such relief where the property on which his claim is based was not in Hungary with the above-mentioned exception relating to war damage to properties located in Northern Transylvania.

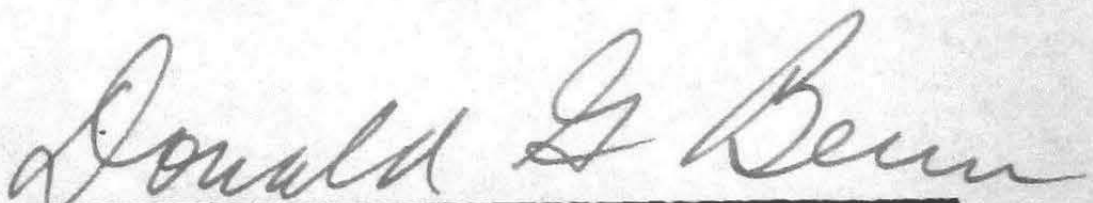
Further, Section 303(2) of the Act authorizes the Commission to receive and determine the claims of nationals of the United States based upon the nationalization, compulsory liquidation or other taking by the Government of Hungary prior to August 9, 1955 of property of nationals of the United States in Hungary. Here also the provisions of the Act clearly require that the taking of property have occurred within the borders of Hungary.

Accordingly, this claim is denied for the reason that the property on which it is based was not located either in Hungary as it existed on September 15, 1947, or in the Northern Transylvania. Other elements bearing upon the compensability of this claim have not been considered.

Dated at Washington, D. C.

JAN 16 1957

FOR THE COMMISSION:



Donald G. Benn, Director
Balkan Claims Division

Handwritten initials:
MWM
WDM