

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

CECILIA MENES  
CECILIA M. DILZELL  
JOSEPH C. MENES

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. HUNG-2-1014

Decision No. HUNG-2-0303

Counsel for claimants, CECILIA M. DILZELL  
and JOSEPH C. MENES:

Weinstein & Korn  
by Herbert M. Korn, Esquire

AMENDED FINAL DECISION

This claim in the asserted amount of \$2,000.00 against the Government of Hungary, under subsection 303(5), Title III of the International Claims Settlement Act of 1949, as amended, is based upon the asserted ownership and loss of certain farmland in Ibrany, Hungary. Claimant acquired United States nationality on August 12, 1970, by naturalization.

In its Proposed Decision dated November 4, 1975, the Commission held that it did not have jurisdiction to grant an award under subsection 303(5) of the Act, supra, in this claim because the claim for compensation was not owned by a national of the United States from November 26, 1966, the date of death of CECILIA MENES's late husband and predecessor in interest, John Menes, until August 12, 1970, the date when the claimant, CECILIA MENES, acquired nationality of the United States by naturalization. Accordingly, the claim was denied.

The Commission's Final Decision on this claim, issued on June 23, 1976, affirmed the Proposed Decision.

Subsequent to the issuance of the Final Decision, CECILIA M. DILZELL and JOSEPH C. MENES, nationals of the United States at all times pertinent to the claim, through counsel, petitioned the Commission to be joined in this claim with their mother, and upon due consideration it is

ORDERED that the petition be and it is hereby granted.

Based upon the evidence of record, the Commission now finds that John Menes, a national of the United States from February 5, 1902, the date of his birth in West Virginia, until his death on November 26, 1966, owned a total of 5 hold, 182 square öl of farmland recorded in Liber No. 3146 as Lot No. 2654/17 and Liber No. 3157 as Lot Nos. 2669/5, 2669/18 and 2669/22 in Ibrany which was taken on or about March 6, 1963, by the Government of Hungary.

Based upon the evidence of record, the Commission finds that upon the death of John (Janos) Menes on November 26, 1966, the claim for the loss of property was acquired in 1/3 shares each by CECILIA MENES, CECILIA M. DILZELL and JOSEPH C. MENES.

Furthermore, the Commission finds that the evidence of record, including evidence of value of comparable property in Hungary, establishes that the 5 hold, 182 square öl of farmland in Ibrany had the value of \$3,300.00 on the date of loss and concludes that claimants, CECILIA M. DILZELL and JOSEPH C. MENES, are entitled to compensation under subsection 303(5) of the Act, supra, in the amount of \$1,100.00 each for their 1/3 interests therein.

Since CECILIA MENES was not a national of the United States during the period November 26, 1966, to August 11, 1970, the Commission finds that no award can be granted for her 1/3 interest in this claim.

The Commission has concluded that in granting awards on claims under subsection 303(5) of the Act for the nationalization or other taking of property, interest shall be allowed at the rate of 6% per annum from the date of loss to March 6, 1973, the effective date of the Hungarian Claims Agreement. (See Claim of John Hedio Proach, Claim No. PO-3197; FCSC Dec. & Ann. 549 (1958)).

Section 310(d) of the Act provides that with respect to any claim which at the time of the award is vested in persons other than the person by whom the loss was sustained, the Commission may issue a consolidated award in favor of all claimants then entitled thereto, which award shall indicate the respective interest of such claimants therein, and all such claimants shall participate, in proportion to their indicated interests, in payments authorized by this title in all respects as if the award had been in favor of a single person.

Since the loss, subject of this claim, was sustained by John Menes and not by the claimants herein, a consolidated award will be issued, each of the claimants to participate to the extent of their respective shares therein.

A W A R D


A consolidated award is hereby made on this claim in the principal amount of Two Thousand Two Hundred Dollars (\$2,200.00), plus interest at the rate of 6% per annum from March 6, 1963, the date when the claim arose, to March 6, 1973, the date when the Hungarian Claims Agreement entered into force in the amount of One Thousand Three Hundred Twenty Dollars (\$1,320.00), in which the claimants share as follows:

<u>Claimant</u>	<u>Principal</u>	<u>Interest</u>
CECILIA M. DILZELL	\$1,100.00	\$ 660.00
JOSEPH C. MENES	\$1,100.00	\$ 660.00

Dated at Washington, D.C.  
and entered as the Amended  
Final Decision of the Commission.

12 MAY 1977

  
Wilfred J. Smith, Commissioner

  
Robert E. Lee, Commissioner

This is a true and correct copy of the decision  
of the Commission which was entered as the final  
decision on 12 MAY 1977

  
Executive Director

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

CECILIA MENES

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. HUNG-2-1014

Decision No. HUNG-2-0303

Appeal and objection from a Proposed Decision entered on November 4, 1975. No Oral Hearing Requested.

Hearing on the Record held on June 23, 1976.

FINAL DECISION

This claim in the asserted amount of \$2,000.00 against the Government of Hungary, under subsection 303(5), Title III of the International Claims Settlement Act of 1949, as amended, is based upon the asserted ownership and loss of certain farmland in Ibrany, Hungary. Claimant acquired United States nationality on August 12, 1970, by naturalization.

In its Proposed Decision dated November 4, 1975, the Commission held that it did not have jurisdiction to grant an award under subsection 303(5) of the Act, supra, in this claim because the claim for compensation was not owned by a national of the United States from November 26, 1966, the date of death of claimant's late husband and predecessor in interest, John Menes, until August 12, 1970, the date when the claimant, CECILIA MENES, acquired nationality of the United States by naturalization. Accordingly, the claim was denied.

By letter dated November 12, 1975, the claimant, CECILIA MENES, objected to the Proposed Decision and requested that the Commission reconsider its determination on this claim, on the basis that she was the actual joint owner of the subject property, though by custom, the property was only recorded in her husband's name. No documentation in support of this contention has been submitted.

The evidence of property ownership upon which the Commission's Proposed Decision was based was the certified land extract for the subject property. This extract only identified claimant's late husband as owner of the property. Accordingly, the record does not establish joint ownership in the property by claimant.

However, even if this contention were correct, since the subject property was taken in 1963 and claimant did not acquire United States nationality until 1970, the claim would still not be compensable for the reason that the property must have been owned by a national of the United States on the date of loss and continuously thereafter until the filing of the claim with the Commission. The application of this principle of international law is required under Public Law 93-460.

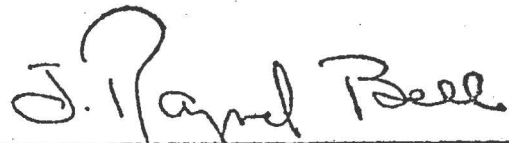
Full consideration having been given to the entire record, including the claimant's objections, and no new evidence having been submitted, the Commission finds that the record in this claim does not warrant any change in the Proposed Decision.


Accordingly, it is

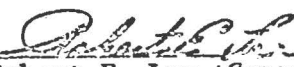
ORDERED that the Proposed Decision be and it is hereby affirmed.

Dated at Washington, D.C.  
and entered as the Final  
Decision of the Commission.

23 JUN 1976

  
\_\_\_\_\_  
J. Raymond Bell, Chairman

  
\_\_\_\_\_  
Wilfred J. Smith, Commissioner

  
\_\_\_\_\_  
Robert E. Lee, Commissioner

The regulations of the Commission provide that after a Final Decision is entered denying a claim in whole or in part, the claimant may petition to have his claim reopened for further consideration if new and compelling evidence becomes available. Such petition must be filed at least 60 days prior to May 15, 1977, the statutory deadline for the completion of the Hungarian Claims Program. (FCSC Reg., 45 C.F.R. 531.5(1), as amended.)

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

CECILIA MENES

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. HUNG-2-1014

Decision No. HUNG-2-0303

PROPOSED DECISION

This claim in the asserted amount of \$2,000.00 against the Government of Hungary, under subsection 303(5), Title III of the International Claims Settlement Act of 1949, as amended, is based upon the asserted ownership and loss of certain farmland in Ibrány, Hungary.

Claimant acquired United States nationality on August 12, 1970, by naturalization.

Under section 303, Title III of the International Claims Settlement Act of 1949, (69 Stat. 570 (1955)); 22 U.S.C. §§1641-1641q (1971), as amended by section (3) of Public Law 93-460, approved on October 20, 1974 (88 Stat. 1386 (1974)), and which implements certain provisions of the Hungarian Claims Agreement of March 6, 1973, (TIAS 7569), the Commission is given jurisdiction as follows:

The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims of nationals of the United States against the . . . [Government of Hungary] . . . arising out of the failure to ---

(5) pay effective compensation for the nationalization, compulsory liquidation or other taking of property of nationals of the United States in Hungary, between August 9, 1955, and the date the United States-Hungarian Claims Agreement of March 6, 1973, enters into force.

Therefore, this new section of the Act does not confer jurisdiction upon the Commission to consider all claims which were settled and discharged under the Hungarian Claims Agreement of 1973, but rather, provides for a limited class only, namely, those which arose between August 9, 1955, and March 6, 1973, as a result of the nationalization, compulsory liquidation or other taking of property.

Additionally, under well established principles of international law, applicable to this claim under subsection 303(5) of the Act, in order for a claim to be compensable, the property upon which the claim is based must have been owned by a national of the United States at the time the nationalization or other taking occurred and the claim which arose therefrom must have been continuously owned thereafter by a United States national until its filing with the Commission.

Copies of certified extracts from the pertinent land records show, and the Commission finds, that the farmland, recorded in Liber Nos. 3146 and 3157 of Ibrány, Hungary, as land parcel Nos. 2654/17, 2669/5, 2669/18, and 2669/22, owned by János Menes, were taken by the Government of Hungary in the year of 1963.

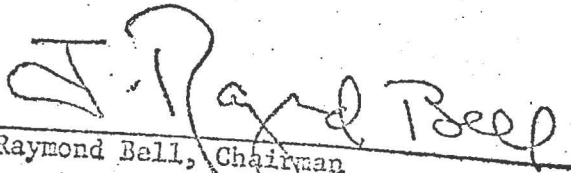
János Menes, also known as John Menes, was a national of the United States from his birth in the United States on February 5, 1902, until his death on November 26, 1966. It is alleged by the claimant, CECILIA MENES, the surviving wife of the late John Menes, that she inherited the claim for compensation based upon the loss of the above mentioned real property. It is further stated by CECILIA MENES that she acquired nationality of the United States on August 12, 1970, by naturalization.

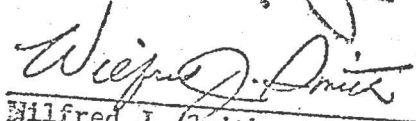
In view of such facts, the Commission concludes that it has no authority to grant compensation for the loss complained of because the claim for compensation was not owned by a national of the United States from November 26, 1966, the date of John Menes' death, until August 12, 1970, the date when the claimant, CECILIA MENES, acquired nationality of the United States by naturalization. Accordingly, this claim must be and it is hereby denied.

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

Dated at Washington, D.C.  
and entered as the Proposed  
Decision of the Commission.

4 NOV 1975

  
J. Raymond Bell, Chairman

  
Wilfred J. Smith, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5 (e) and (g), as amended.)

HUNG-2-1014