

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

IN THE MATTER OF THE CLAIM OF

SANDOR BARNA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. HUNG-2-1348

Decision No. HUNG-2-1115

Appeal and objection from a Proposed Decision entered on November 3, 1976. No Oral Hearing Requested.

Hearing on the Record held on March 30, 1977

FINAL DECISION

This claim in the asserted amount of \$53,000.00 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 alleged ownership and loss of certain real property in Miskolc, Hungary, and loss of the proceeds of three life insurance policies contracted with the Hungarian agency of Assicurazioni Generali in Trieste, Italy, "Donau" Allgemeine Versicherungs A.G. in Vienna, Austria, and "Phönix" Lebensversicherungs-Gesellschaft in Vienna, Austria. Claimant, SANDOR BARNA, states that he acquired United States nationality on May 14, 1962, by naturalization.

In its Proposed Decision dated November 3, 1976, the Commission found that the claimant had not met the burden of proof in that he had failed to establish that the subject property was nationalized or otherwise taken by the Government of Hungary during the period August 9, 1955, to March 6, 1973, as required for compensation under subsection 303(5) of the Act, supra. Accordingly, the claim was denied.

By letter dated December 11, 1976, the claimant, SANDOR BARNA, objected to the Proposed Decision and requested that the Commission reconsider its Decision. No evidence or documentation in support of the claim, was submitted. Subsequently, by letter dated January 29, 1977, claimant indicated he had not received any evidence from Hungary in support of his claim. No further correspondence has been received from the claimant, and no evidence has been submitted to the Commission to date.

Full consideration having been given to the entire record, including the claimant's objections, and no new evidence having been received to date, the Commission finds that 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.

30 MAR 1977

J. Raymond Bell

J. Raymond Bell, Chairman

Wilfred J. Smith

Wilfred J. Smith, Commissioner

Robert E. Lee

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 30 MAR 1977

[Signature]
Executive Director

HUNG-2-1348

FOREIGN CLAIMS SETTLEMENT COMMISSION
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IN THE MATTER OF THE CLAIM OF

SANDOR BARNA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. HUNG-2-1348

Decision No. HUNG-2- 1115

PROPOSED DECISION

This claim in the asserted amount of \$53,000.00 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 alleged ownership and loss of certain real property in Miskolc, Hungary, and loss of the proceeds of three life insurance policies contracted with the Hungarian agency of Assicurazioni Generali in Trieste, Italy, "Donau" Allgemeine Versicherungs A.G. in Vienna, Austria, and "Phönix" Lebensversicherungs-Gesellschaft in Vienna, Austria.

Claimant, SANDOR BARNA, states that he acquired United States nationality on May 14, 1962, by naturalization.

Under section 303, Title III of the International Claims Settlement Act of 1949, (69 Stat. 570 (1955)); 22 U.S.C. §§1641-1641g (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.

It is important to note that other classes of claims settled and discharged by the Agreement which arose prior to August 9, 1955, were provided for pursuant to subsections (1), (2) and (3) of section 303 of the Act, supra. The Commission's authority with respect to claims arising before August 9, 1955, under Public Law 84-285, expired by law, on August 9, 1959.

Moreover, under well established principles of international law, applicable to this claim under section 303 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.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim.
(FCSC Reg., 45 C.F.R. §531.6(d) (1974)).

No documentation with respect to the claimant's ownership, on the date and manner of the asserted taking of the real property in Miskolc was submitted at the time of filing the claim. Therefore, the claimant was advised as to the type of evidence proper for submission to establish this claim and the sources of such evidence by letter dated January 22, 1976.

No response to this letter or evidence having been received, the Commission again requested, by letter dated May 17, 1976, that documentation be submitted. Claimant was also advised that it might become necessary for the Commission to make a determination on this claim on the basis of the record available, if the previously suggested documentation is not submitted within 60 days from the date of that letter.

Pursuant to the claimant's request the period of time for the submission of evidence was extended to May 15, 1976. The claimant was also advised that after that date the Commission would proceed with a determination on this claim.

Under date of June 26, 1976, the claimant, through one Paul Kelenyi, submitted a letter, dated May 24, 1976, from Pénzintézeti Központ (Central Corporation of Banking Companies) in Budapest, the agency authorized by the Government of Hungary to process requests for extracts from the land records. In that letter the Pénzintézeti Központ advised the claimant that the land recordation authority was asked to furnish the requested land extracts "within the shortest time possible". The claimant was requested to be patient until the documents were received by the Pénzintézeti Központ.

The remaining portion of the claim is based upon three life insurance policies, one with the Assicurazioni Generali in Trieste, Italy, another with "Donau" Allgemeine Versicherungs A.G. in Vienna, Austria, and the third with "Phönix" Lebensversicherungs-Gesellschaft in Vienna, Austria.

The Assicurazioni Generali in Trieste, as well as the "Donau" Allgemeine Versicherungs A.G., are Italian and Austrian corporations, respectively, having the majority of their assets outside of Hungary. Any nationalization or other taking by the Government of Hungary of any assets the corporations had within Hungary did not affect the claimant's right to collect under the life insurance policies at any place the corporations had assets which could be attached. There is no evidence of record to establish that the Government of Hungary would have taken away from the claimant his right to collect under the policies in question.

"Phönix" Lebensversicherungs-Gesellschaft was also an Austrian corporation. However, it got into financial difficulties in March 1936 which prompted the Government of Hungary to issue Decrees No. 4,040/1936 M.E., 4,800/1936 M.E., and 4,700/1937 M.E. Under these provisions, among other things, the face amount of

the policy was reduced, the obligations, originally contracted for in a foreign currency, was converted into an obligation payable in pengő, and those life insurance policies, which were recognized as Hungarian obligations, were transferred to the Unitas a "Phönix" magyarországi életbiztosításait lebonyolító r.t. (Unitas, a Stock Corporation for the Liquidation of "Phonix" Life Insurance Policies).

The claimant's life insurance with "Phönix" was a 20 year life policy in the face amount of \$1,500.00, maturing on April 1, 1951. Receipts of premium payments, submitted by the claimant, show that the last premium payment was made on January 1936.

Although the life insurance policy, originally contracted with "Phönix", an Austrian corporation, was transferred to and became an obligation of Unitas, an Hungarian corporation, there is no evidence of record to show that the Government of Hungary would have deprived the claimant from his right to collect under the policy in question at any time between August 9, 1955, and March 6, 1973.

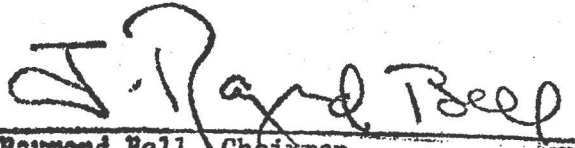

In view of the foregoing, the Commission concludes that the claimant has failed to meet the burden of proof, in that he has failed to establish that he owned real property in Hungary which and the proceeds of the three life insurance policies in question were nationalized or otherwise taken by the Government of Hungary between August 9, 1955, and March 6, 1973, on a date when such properties were owned by a national of the United States, as required for compensation under subsection 303(5) of the Act, supra.

Accordingly, this claim must be and it is hereby denied in its entirety.

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.

3 NOV 1976


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.)

The regulations also 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.)