

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

IN THE MATTER OF THE CLAIM OF

MICHAEL M. VASVARI
LOUISE VASVARI

Under the International Claims Settlement
Act of 1949, as amended

Claim No. HUNG-2-184

Decision No. HUNG-2-1332

Appeal and objections from a Proposed Decision entered on February 17, 1977. Request for Oral Hearing withdrawn.

Hearing on the Record held on April 22, 1977.

FINAL DECISION

This claim in the asserted amount of \$48,300.00 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 loss of certain personal property, consisting of antique furniture and interest in paintings, all in Budapest, Hungary.

Claimants, MICHAEL M. VASVARI and LOUISE VASVARI, stated that they acquired United States nationality on November 11, 1954, and September 16, 1957, respectively, by naturalization.

In its Proposed Decision dated February 17, 1977, the Commission denied this claim for the reason that claimants failed to establish that the furniture and paintings, involved in this claim, were nationalized or otherwise taken by the Government of Hungary between August 9, 1955, and March 6, 1973, as required for compensation under subsection 303(5) of the Act, supra.

By letter dated February 24, 1977, claimants objected to the Proposed Decision and requested an oral hearing. Claimants also requested that they be given 90 days notice of the date set for the hearing.

In response, the Commission advised the claimants that since the Commission's authority for claims under Public Law 93-460 expired on May 15, 1977, the oral hearing could not be scheduled as requested. By letter dated March 17, 1977, claimants indicated that they could not attend an oral hearing but asked that their objections be considered thoroughly by the Commission.

In their objections claimants contend that:

- (1) they are United States nationals;
- (2) that the denial of a permit to export their personal property, that is furniture and paintings, was a nationalization of their property; and,
- (3) that their loss may be compensated under subsection 303(5) of the Act, supra.

No new evidence in support of these objections has been submitted.

The Commission has reviewed the entire record and concludes that while certain limitations were placed on the right of use of the claimants' furniture and paintings by the Government of Hungary, these limitations do not amount to a taking of the property under the terms of subsection 303(5) of the Act, supra. Moreover, the actions taken were in the nature of protection and preservation of art objects and not confiscation.

Full consideration having been given to the entire record, including the claimants' objections, the Commission finds that the evidence of record does not warrant any change in the Proposed Decision.

Accordingly, it is

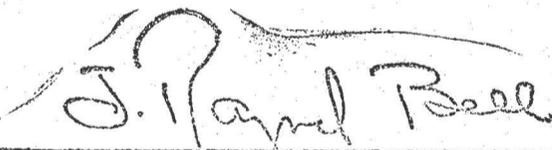
ORDERED that the Proposed Decision be and it is hereby affirmed.

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

22 APR 1977

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on 22 APR 1977


Executive Director


J. Raymond Beal, Chairman


Wilfred J. Smith, Commissioner


Robert E. Lee, Commissioner

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PROPOSED DECISION

This claim in the asserted amount of \$48,300.00 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 loss of certain personal property, consisting of antique furniture and interest in paintings, all in Budapest, Hungary.

Claimants, MICHAEL M. VASVARI and LOUISE VASVARI, state that they acquired United States nationality on November 11, 1954, and September 16, 1957, respectively, by naturalization.

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

In their Statement of Claim the claimants, MICHAEL M. VASVARI and LOUISE VASVARI, state that in the year of 1951, when LOUISE VASVARI emigrated from Hungary, she left their antique furniture and paintings with her mother in Budapest, Hungary. In the summer of 1968, when the mother of LOUISE VASVARI died, the furniture in question was placed into the apartment of Pal Vasvari at No. 60 Visegradi Street in Budapest. At the same time LOUISE VASVARI, then being temporarily in Budapest, contacted the Museum of Arts and Crafts (Iparművészeti Múzeum) concerning the furniture and took the paintings to the Museum of Fine Arts (Szép művészeti Múzeum) for inspection as a precondition to obtain a permit for their exportation.

The application for the export permit was denied for the furniture as well as for the paintings. Additionally, by Decision No. 85916/68, dated August 30, 1968, the Minister for Public Education declared the furniture as "protected articles of museum quality" under the provisions of Law-Decree 1963:9 tvr. providing for the protection of property having museum quality. There is no evidence of record to show that the claimant's agent in Hungary, Pal Vasvari, would have lost possession of the furniture.

The record also contains a contract, dated August 6, 1968, with an addition dated September 17, 1968, by which LOUISE VASVARI placed the seven paintings, being in fair to severely damaged condition, into the custody of the Museum of Fine Arts in Budapest on the basis of section 14 of Law-Decree 1963:9 tvr., for the period of five years, expiring on August 6, 1973. There is no evidence of record to show that placing the paintings under the custody of the Museum of Fine Arts was made under any duress exercised by the Government of Hungary. To

the contrary, the prolonged absence of the claimants, as owners, from Hungary and the poor condition of several of the paintings warranted the placing of the paintings into the custody of professionals.

It is within the sovereign right of every government to provide for the protection and preservation of art objects situated within its borders and prohibit the exportation of such articles. The rights of an owner are not unlimited. They are restricted, controlled, and limited in several ways, depending upon the economic or artistic value of the property, the most commonly recognized such limitation being the zoning provisions and actions affecting real property. Unless the owner is not deprived substantially of the use and enjoyment of his property, he cannot claim the loss thereof.

Declaring the furniture as "protected articles of museum quality" put a burden upon the claimants concerning the preservation of such articles but did not deprive them from their use and enjoyment within Hungary. Similarly, the placement of the paintings into the custody of the Museum of Fine Arts for a period of five years was an action which was warranted more by the future protection and preservation of the paintings than by an intention of the government to deprive the claimants from the ownership thereof.

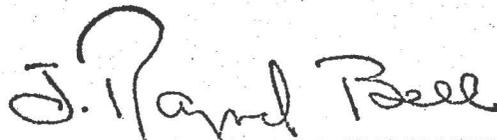
In view of the foregoing, the Commission concludes that the claimants have failed to establish that the furniture and paintings, involved in this claim, were nationalized or otherwise taken by the Government of Hungary between August 9, 1955, and March 6, 1973, as required for compensation under subsection 303(5) of the Act, supra.

Accordingly, this claim must be and it is hereby denied with respect to both claimants.

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.

17 FEB 1977



J. Raymond Bell, Chairman



Wilfred J. Smith, Commissioner



Robert E. Lee, 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(l), as amended.)