

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

IN THE MATTER OF THE CLAIM OF

BELA GONDOS
ANNA ILONA GONDOS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. HUNG-2-322

Decision No. HUNG-2-0767

AMENDED PROPOSED DECISION

This claim in the asserted amount of \$350,000.00 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 properties at No. 4 and 22 Rákóczi Street and No. 7 Hosszúfalu Street in Békés and unidentified real property in Kiskunhalas, all in Hungary.

Claimant, ANNA ILONA GONDOS, acquired United States nationality on June 18, 1952, by naturalization.

By Proposed Decision dated May 19, 1976, this claim was denied for the failure of the claimants, BELA GONDOS and ANNA ILONA GONDOS, to establish that they owned property in Hungary which was nationalized or otherwise taken by the government of that country between August 9, 1955, and March 6, 1973, as required for compensation under subsection 303(5) 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)), implementing certain provisions of the Hungarian Claims Agreement of March 6, 1973, (TIAS 7569).

Subsequently, ANNA ILONA GONDOS submitted new evidence consisting of certified extracts from the pertinent land records of Békés, Hungary, which show, and on the basis of which the Commission finds as follows:

ANNA ILONA GONDOS owned the improved real properties at No. 4 Bánát (formerly Rákóczi) Street, recorded in Liber 1103 as Lot No. 1390, and at No. 25 Rákóczi Street, recorded in Liber 3901 as Lot No. 1820, which were nationalized by the Government of Hungary under Law Decree 1952:4 tvr. on or about March 6, 1958.

It is stated by the claimant that No. 4 Bánát Street, having an area of 561 sq. meters, was improved by a two story building of modern construction, having two 5 room apartments a dentist's office and its own water supply system. She further stated that No. 25 Rákóczi Street, having an area of 1176 sq. meters, was improved by a one-floor building, having 5 rooms, a kitchen, bath and an outside lavatory, and that the improvements were built prior to World War I.

On the basis of all evidence of record, including evidence of value of comparable property in Hungary, the Commission finds that on March 6, 1958, the date of loss, the real properties at No. 4 Bánát and No. 25 Rákóczi Streets had the value of \$22,000.00 and \$6,000.00, respectively, and concludes that ANNA ILONA GONDOS is entitled, under subsection 303(5) of the Act, supra, to compensation in the total amount of \$28,000.00.

The recently submitted evidence further shows that ANNA ILONA GONDOS owned a 2/5ths interest in the real property at No. 12 Veress (formerly No. 7 Hosszufoki) Street in Békés, recorded in Liber 4739 as Lot No. 1832. The record, however, further shows that such 2/5ths interest was acquired by László Apáti and his wife, Eszter Högye, in 1971 by adverse possession.

Adverse possession is an original acquisition of ownership and cannot be equated with a "nationalization or other taking" of property by the Government of Hungary. Accordingly, the Commission is not in the position to grant compensation for the loss of such interest under subsection 303(5) of the Act, supra.

The new evidence does not establish that BELA GONDOS owned property that was taken during the period covered by subsection 303(5) of the Act.

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 (1968)).

In view of the foregoing, it is

ORDERED that the Proposed Decision of May 19, 1976, be amended in accordance with the foregoing, and in all other respects remain unaffected; and an award be made to ANNA ILONA GONDOS as follows:

A W A R D

An award is hereby made to ANNA ILONA GONDOS in the principal amount of Twenty-eight Thousand Dollars (\$28,000.00), with interest thereon at the rate of 6% per annum from March 6, 1958, the date when the claim arose, to March 6, 1973, the date when the Hungarian Claims Agreement entered into force, in the sum of Twenty-five Thousand Two Hundred Dollars (\$25,200.00).

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

13 JAN 1977

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on 14 FEB 1977

James F. Matthews
Executive Director

J. Raymond Beal

J. Raymond Beal, Chairman

Wilfred J. Smith

Wilfred J. Smith, Commissioner

Robert E. Lee

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(1), as amended.)

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Claimants, BELA GONDOS and ANNA ILONA GONDOS, state that they acquired United States nationality on June 18, 1952, 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.

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.

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., subsection 531.6(d) (1974)).

No documentation with respect to claimants' asserted ownership of the subject property, or the date and manner of its taking was submitted at the time of filing the claim. Therefore, the claimants were advised as to the type of evidence proper for submission to establish this claim and the sources of such evidence in the course of the interview held in the Commission's office on April 30, 1975.

No evidence having been received, the Commission requested, by letter dated October 31, 1975, that documentation be submitted to establish the loss asserted. Claimants were also advised that it may become necessary for the Commission to reach a determination on the claim based upon the record available, if the evidence is not submitted within 60 days from the date of that letter.

Pursuant to the claimants' request, the time for the submission of supporting evidence was extended until March 1, 1976.

No evidence having been received to date, the Commission finds that the claimants, who assert a loss of certain property in Hungary during the statutory period, have not met the burden of proof in that they have 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, 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.

19 MAY 1976

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 23 JUN 1976

Francis T. Montuori
Executive Director

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.)

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