

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

IN THE MATTER OF THE CLAIM OF

PALMA CSICSERY
ILONA CSOEKE-POECKH
ANTON LUKACS
GIZELLA T. MODLY

Under the International Claims Settlement
Act of 1949, as amended

Claim No s. HUNG-2-763
HUNG-2-764
HUNG-2-765
HUNG-2-766
Decision No. HUNG-2-1188

Counsel for Claimants:

Lawrence J. Hogan, Esquire

PROPOSED DECISION

These claims in the asserted amounts of \$128,083.00, \$95,058.00, \$95,058.00 and \$95,058.00, respectively, against the Government of Hungary, under subsection 303(5), Title III of the International Claims Settlement Act of 1949, as amended, are based upon certain real property in Csömör, personal property stored in a warehouse at Hungaria Boulevard in Budapest, and "inheritance from Antal Lukacs" consisting of Swiss, Belgian, and Dutch bonds and stock, deposited since 1908 in a safe of the National Land Credit Institute (Országos Földhitelintézet) in Budapest, all in Hungary. ANTON LUKACS also claims the loss of a one-half interest in certain building lot at No. 35 Kelenhegyi Street in Budapest, Hungary.

Claimants, PALMA CSICSERY, ILONA CSOEKE-POECKH, ANTON LUKACS and GIZELLA T. MODLY, state that they acquired United States nationality on March 10, 1957, May 21, 1957, June 11, 1957, and November 11, 1954, respectively, by naturalization.

Under section 303, Title III of the International Claims Settlement Act of 1949, (69 Stat. 570 (1955)); 22 U.S.C. ss1641-1641q (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.

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)).

HUNG-2-763
HUNG-2-764
HUNG-2-765
HUNG-2-766

I. Real property in Csömör, Hungary

In support of their claims the claimants, through counsel, submitted copies of Order 1111/1941 tkv., dated March 4, 1941, of the Land Record Authority, County Court in Gödöllő, Order 415/1969, dated March 13, 1969, of the Land Office in Gödöllő, and Order 5894/1970, dated October 5, 1970, of the Land Record Authority, County Court in Gödöllő, which show, and on the basis of which the Commission finds as follows:

(a) In the year of 1941 title to Lot No. 595/3 in Csömör was recorded, for reason of inheritance, in the names of Mrs. Jozsef Kovács nee Irma Lukács, Mrs. Jakab Tahy nee Margit Lukács, Mrs. Gyula Csengey nee Palma Lukács, and Géza Lukács in equal shares;

(b) title to Lot Nos. 3136/9-11 was recorded in the name of Mrs. Istvan Modly nee Gizella Tahy;

(c) title to Lot Nos. 3135/21-23 was recorded in the name of Mrs. Zsigmond Csicsery nee Palma Tahy;

(d) title to Lot Nos. 3135/27-28, 30 was recorded in the name of Ilona Tahy (now Mrs. Csoeke-Poeckh); and

(e) title to Lot Nos. 551/3-5 was recorded in the name of Antal Lukacs, then a minor.

The property of the claimants and their co-heirs, having an approximate total area of 120 hold, was taken by the Government of Hungary under the provisions of Decree 600/1945.M.E. in the year of 1945 in the course of the agrarian reform. Lot No. 595/3 was also taken by the Government of Hungary in the year of 1945; however, the recordation of title in the State of Hungary to this land parcel having an area of 1 hold 1480 square öl was effected in the year of 1969. Land parcel No. 595/3 was a private road and has been used as a public road since its nationalization in 1945. Being a road, the land parcel now in question, has no value in itself; its value is included in the value of the real property which it serves, real property nationalized in 1945.

HUNG-2-763
HUNG-2-764
HUNG-2-765
HUNG-2-766

Therefore, no compensation may be granted to the loss of land parcel 595/3 even if the Commission would conclude that it was taken by Government of Hungary in 1969, the date when title to the already nationalized land parcel was belatedly ordered to be recorded in the State of Hungary. Moreover, the record is void of any evidence to show that any of the claimant owned an interest in such land parcel at the time that recordation was effected in 1969.

II. Inheritance from Antal Lukacs

It is alleged by the claimants that pursuant to the provisions of the Will of the late Antal Lukacs, various securities, consisting of Swiss, Belgian, and Dutch bonds and stocks, having a total value of one million gold korona, were deposited for the benefit of the testator's 17 grandchildren with the National Land Credit Institute (Országos Földhitelintézet) in Budapest, Hungary, in the year of 1908. Under the provisions of the Last Will the deposited securities should have been distributed among the testator's 17 grandchildren, the claimant being among such group, upon the death of the testator's last surviving child, who was Palma Lukacs. Palma Lukacs, also known as Mrs. Emil Mackay, died in 1965, and the claimants argue that their right to their respective share in the securities, was taken by the Government of Hungary in 1965.

The Commission concludes that it cannot grant compensation for the loss now complained of because the claimants have failed to establish that they owned an interest in the securities in question, and that such property was nationalized or otherwise taken by the Government of Hungary between August 9, 1955, and March 6, 1973, on a date when it was owned by a national of the United States, as required for compensation under subsection 303(5) of the Act, supra.

III Personal property, left in Budapest

PALMA CSICSERY asserts a claim for the loss of personal property in part left in storage in a warehouse at Hungaria

HUNG-2-763
HUNG-2-764
HUNG-2-765
HUNG-2-766

Boulevard in Budapest and in party left in a bomb shelter in Budafok, Hungary, all in 1944.

In support of this portion of the claim PALMA CSICSERY submitted an affidavit by Charles G. Merényi and Margaret Merényi, who state that they have seen the personal property listed and described in their affidavit, in the home of PAMLA CSICSERY between the years of 1927 and 1944. No evidence has been submitted to show the nationalization or other taking of such personal property by the Government of Hungary, if that was the case, the method and date of such action.

Accordingly, the Commission concludes that it cannot grant compensation to PALMA CSICSERY for the loss of the personal property now in question for her failure to establish that such property was nationalized or otherwise taken by the Government of Hungary between March 10, 1957, the date when she, assertedly, acquired nationality of the United States, and March 6, 1973, as required for compensation under subsection 303(5) of the Act, supra.

IV. Real property at No. 35 Kelenhegyi Street in Budapest XI

In support of this portion of the claim ANTON LUKACS submitted a copy of a certified extract from the land records of Budapest which shows, and on the basis of which the Commission finds that the real property, recorded in Liber 11753 of Budapest, Dunajobbpart, as Lot No. 5435/1, also known as house, yard, and garden at No. 35 Kelenhegyi Street in Budapest XI, owned by Geza Lukacs, the claimant's father and asserted predecessor in interest, was nationalized by the Government of Hungary under Law-Decree 1952:4 tyr. in the year of 1952.

Accordingly, the Commission concludes that it has no authority to grant compensation for the loss of the real property at No. 35 Kelenhegyi Street, because it was nationalized in the year of 1952, a date prior to August 9, 1955, the first date of the period during which the loss must have occurred in order to be compensable under subsection 303(5) of the Act, supra.

HUNG-2-763
HUNG-2-764
HUNG-2-765
HUNG-2-766

In view of the foregoing, these claims must be and they are hereby denied in their entirety with respect to all four claimants.

The Commission finds it unnecessary to make determinations with respect to other elements of these claims.

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

24 NOV 1976

This is a true and correct copy of the decision of the Commission which was entered as the final decision on FEB 07 1977

Francis T. Mortenson
Executive Director

J. Raymond Bell
J. Raymond Bell, 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.)

- HUNG-2-763
- HUNG-2-764
- HUNG-2-765
- HUNG-2-766