

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

IN THE MATTER OF THE CLAIM OF

JOSEPH W. SCHEILI

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. HUNG-2-782

Decision No. HUNG-2-0729

Counsel for Claimant:

Jones, Damia, Deakin and Wellman  
by Eric N. Wellman, Esquire

PROPOSED DECISION

This claim in the asserted amount of \$13,500.00 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 improved real property and farmland in Visegrád and Kisoroszi, Hungary.

The claimant, JOSEPH W. SCHEILI, has been a national of the United States since his birth in the United States on October 5, 1930.

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.

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 subsection (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.

In support of his claim the claimant, JOSEPH W. SCHEILI, submitted a certified extract of land record Liber 1677 of Visegrád, Hungary, which shows, and on the basis of which the Commission finds, that House No. 62, recorded as Lot No. 209 and identified by the claimant as No. 63 Fő Street, was owned on January 3, 1976, the date when the land extract was issued, by the claimant and his mother, Mrs. Jozsef Scheili, nee Anna Gyug in equal shares. The land record further shows that in the year of 1963 the property was declared to be protected as a historical monument.

The declaration and protection of property as a historical monument does impose certain restrictions upon the owner of such property, particularly his rights to raze or alter the improvements. However, such limitations are compensated with the increased value such official declaration carries with itself. Moreover, it does not affect the alienation or sale of the property, the most important rights of the owner.

In view of the foregoing, the Commission concludes that the claimant has failed to establish that the real property recorded in Liber 1677 of Visegrád, in which he has a one-half interest, was 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 Commission letter of November 17, 1975, the claimant was advised that it would be in his interest to submit evidence to establish his ownership of farmland in Visegrád and Kisoroszi, Hungary, the method and date of its nationalization or other taking by the Government of Hungary, if that was the case.

In a letter dated December 11, 1975, the claimant stated, through counsel, that he is attempting to obtain the suggested evidence.

Since no evidence has been submitted the farmland now in question, the claimant was informed by letter of January 8, 1976, that no further action will be taken on this claim until April 1, 1976, in order to provide him with additional time to obtain and submit supporting documentation; after that date, however, a decision may be issued on the basis of the record then available.

No evidence has been submitted to date concerning the farmland in Visegrád and Kisoroszi. Accordingly, the Commission finds that the claimant has not met the burden of proof in that he has failed to establish his ownership of any farmland in Visegrád and Kisoroszi, the method and date of its nationalization or other taking by the Government of Hungary, if such was the case.

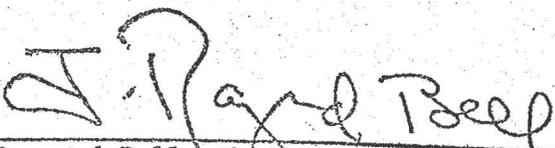
In view of the foregoing, this claim must be and it is hereby denied.

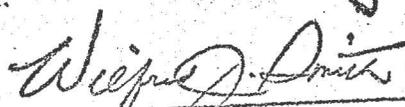
It is noted that Mrs. Jozsef Scheili nee Anna Gyug, who is the owner of a one-half interest in the real improved property recorded in Liber 1677 of Visegrád, did not file a claim. Even if she has have filed, she would not be eligible for compensation because she states that she lost her United States citizenship in 1945. Thus, her interest in the subject property was not owned by a national of the United States as required from compensation under subsection 303(5) of the Act, supra.

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

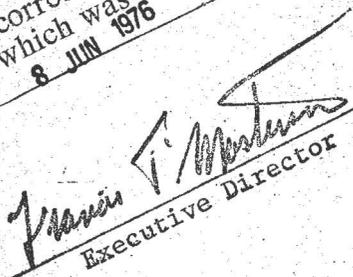
Dated at Washington, D.C.  
and entered as the Proposed  
Decision of the Commission.

5 MAY 1976

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

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

This is a true and correct copy of the decision  
of the Commission which was entered as the final  
decision on 8 JUN 1976

  
\_\_\_\_\_  
Francis T. Martin  
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.)