

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

IN THE MATTER OF THE CLAIM OF

JOSEPH KOVACS  
ELIZABETH KOVACS

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. HUNG-2-797

Decision No. HUNG-2-0749  
Amended

Counsel for Claimants:

John J. Stropko, Esquire

AMENDED PROPOSED DECISION

This claim, in the asserted amount of \$15,500.00 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 farmland in Hajdudorog, Hungary, and loss of crop production from the same property for thirteen and one-half years.

By Proposed Decision, dated May 5, 1976, the claim was denied for the failure of the claimants, JOSEPH KOVACS and ELIZABETH KOVACS, 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.

Subsequently, the claimants filed objections to the Proposed Decision of May 5, 1976, and submitted new evidence. Upon review of such new evidence and on the basis of the entire record, the Commission now finds as follows:

The claimants, JOSEPH KOVACS and ELIZABETH KOVACS, owned 3212/8023 and 3211/8023 interests, respectively, in the arable land recorded in Liber 6349 of Hajdudorog, Hungary, as Lot Nos. 9147/3, 9148/3, 9149/3, 9150, 9153/3, 9154/3, and 9155/3, the two interests amounting to an actual area of 4 hold 23 square öl; and that such property interests were taken by the Government of Hungary on or about March 6, 1961.

The record shows that in 1937 the claimants purchased the subject property for 3,412 pengo, the equivalent of about \$680.-. Claimants assert that the value of such property was \$2,000.00.

Where the record does not contain sufficient evidence regarding the value of property involved in a claim, the Commission has decided to consider the average values published in 1956 by the Präsident des Bundesausgleichsamtes, Bad Homburg (Verzeichnis der Gemeinde-Hektarsätze mit alphabetischem Kreisverzeichnis der Vertreibungsgebiete, 1956 (Supp.)). These values were used in administering the German Equalization of Burdens laws. In utilizing these values, the Commission made an upward adjustment to take into account the appreciation in value of property since September 20, 1939, the date to which the German values mentioned above refer.

On the basis of all evidence of value, including evidence of value of comparable property in Hungary, the Commission finds that on March 6, 1961, the date of loss, a one-half interest in the 4 hold 23 square öl of arable land now in question had the value of \$1,200.00, and concludes that each of the claimants, JOSEPH KOVACS and ELIZABETH KOVACS, is entitled, under the terms of subsection 303(5) of the Act, supra, to compensation in such amount.

A portion of the claim in the amount of \$13,500.00 is based upon the loss of crop production for thirteen and one-half years, presumably for the period from 1961 to 1975.

The crops for any period of time after March 6, 1961, the date when the property was taken by the Government of Hungary, belonged to that Government rather than to the claimants, the previous owners of the subject property, and are not proper basis for a claim under the Act, supra. Accordingly, no compensation can be granted for the loss of crop production for the thirteen and one-half years. However, the claimants were entitled, on the date when the property was taken, to compensation in an amount equal to the value of the property. Thus, they suffered the loss of the use of the money they were entitled to received on March 6, 1961. Such loss can be compensated in terms of interest and it is so granted.

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 5, 1976, be amended in accordance with the foregoing, and in all other respects remain unaffected; and awards be made to the claimants as follows:

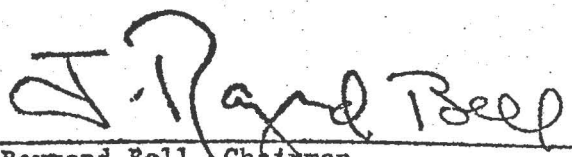
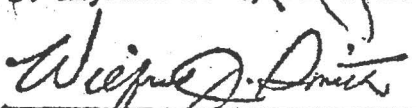
A W A R D

An award is hereby made to JOSEPH KOVACS in the principal amount of One Thousand Two Hundred Dollars (\$1,200.00), with interest thereon at the rate of 6% per annum from March 6, 1961, the date when the claim arose, to March 6, 1973, the date when the Hungarian Claims Agreement entered into force, in the sum of Eight Hundred Sixty-four Dollars (\$864.00), and

an award is granted to ELIZABETH KOVACS in the principal amount of One Thousand Two Hundred Dollars (\$1,200.00), with interest thereon at the rate of 6% per annum from March 6, 1961, the date when the claim arose, to March 6, 1973, the date when the Hungarian Claims Agreement entered into force, in the sum of Eight Hundred Sixty-four Dollars (\$864.00).

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

7 JUL 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.)

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IN THE MATTER OF THE CLAIM OF

JOSEPH KOVACS  
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Act of 1949, as amended

Claim No. HUNG-2-797

Decision No. HUNG-2- 0749

Counsel for Claimants:

John J. Stropko, Esquire

PROPOSED DECISION

This claim in the asserted amount of \$15,500.00 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 alleged ownership and loss of certain farmland in Hajdudorog, Hungary, and loss of crop production from the same property for thirteen and one-half years.

Claimant, JOSEPH KOVACS, acquired United States nationality on January 13, 1939, by naturalization. ELIZABETH KOVACS has been a national of the United States since her birth in the United States on May 25, 1909.

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 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.

Claimant, JOSEPH KOVACS and ELIZABETH KOVACS, stated that at the time of filing that the property on which this claim is based was nationalized or otherwise taken by the the Government of Hungary in the year of 1961.

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 date and manner of the asserted taking 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 June 30, 1975.

No response to this letter or evidence having been received, the Commission again requested, by letter dated November 6, 1975, that documentation be submitted to establish the loss asserted. Claimant was also advised that it may become necessary for the Commission to reach a determination on the claim based upon the record available 60 days after the date thereof.

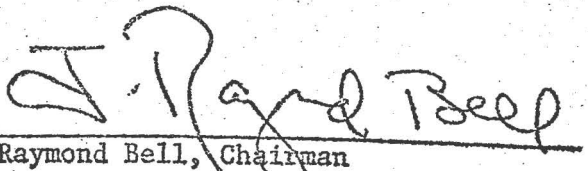
Pursuant to the claimants' request the time limit to submit supporting documentation was extended to April 1, 1976, by Commission letter of January 5, 1976. In that letter, however, the claimants were advised, through their attorney, that after that date the Commission would proceed to a determination on the claim based upon the record then available.

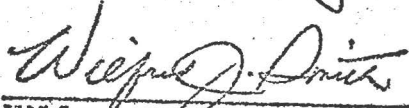
No response or evidence having been received to date, the Commission finds that the claimants, who assert a loss of certain property in Hungary during the statutory period, have not met the burden of proof in that they have failed to establish that the subject property was nationalized or otherwise taken 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.

5 MAY 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.)