

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

IN THE MATTER OF THE CLAIM OF

BELA DEVAI

Under the International Claims Settlement
Act of 1949, as amended

Claim No. HUNG-2-815

Decision No. HUNG-2-0894

AMENDED FINAL DECISION

This claim in the asserted amount of \$24,455.00 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 asserted loss of real property and business interests located at No. 158-93 Tuskepuszta and No. 47 Kossuth Street, Dombóvár, Hungary.

Claimant, BELA DEVAI, acquired United States nationality on September 3, 1957, by naturalization.

By Proposed Decision dated July 7, 1976, which was entered as the Commission's Final Decision on August 10, 1976, this claim was denied for the failure of the claimant to meet the burden of proof.

Subsequently, the claimant petitioned the Commission to reopen this claim and submitted newly acquired evidence which shows, and on the basis of which the Commission finds as follows:

The claimant, BELA DEVAI, owned a one-half interest in a building parcel of 158 square 81, recorded in Liber 5259 of Ujdombovár, Hungary, as Lot No. 158/93, which was taken by the Government of Hungary on January 3, 1972, by condemnation.

It is stated by the Claimant that the entire fee in the subject property had the value of \$2,285.00, but failed to submit evidence in support of such allegation.

On the basis of the entire record, including evidence of value of comparable property in Hungary, the Commission finds that on January 3, 1972, the date of loss, a one-half interest in the 158 square ö1 of building parcel had the value of \$640.00.

It is noted by the Commission that evidence of record establishes that the claimant received 2,970 forint in compensation which was placed into a blocked forint account with Pénzüntézeti Központ (Central Corporation of Banking Companies) in Budapest, Hungary. Therefore, the dollar equivalent of the compensation granted by the Government of Hungary must be deducted from the value of the property as determined herein.

Inasmuch as the dollar equivalent of 2,970 forint is \$120.00, the Commission concludes that the claimant, BELA DEVAI, is entitled, under the terms of subsection 303(5) of the Act, supra, to compensation in the amount of \$520.00.

The remaining one-half interest in the building parcel of 158 square ö1 is owned by Mrs. Istvan Devai nee Eleonora Pupos, the surviving wife of the late Istvan Devai and the step-mother of the claimant. It is argued by the claimant that under some unstated "old Hungarian laws" he is entitled to the other one-half interest in the subject property. Even if such laws, apparently relating to inheritance of real property, would be in existence, no such law would apply in this case because the record shows that Mrs. István Dévai nee Eleonora Pupos acquired her one-half interest in the subject property in the year of 1949 for reason of a governmental grant (juttatás), an original method of acquiring ownership of real property, and not be inheritance or other method of succession. Therefore, the portion of the claim which is based upon the one-half interest in the building parcel of 158 square ö1 owned by Mrs. István Dévai nee Eleonora Pupos must be and it is hereby denied.

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 July 7, 1976, as it became the Commission's Final Decision on this claim on August 10, 1976, be amended in accordance with the above, in all other respects remain unaffected, and an award be made to the claimant as follows:

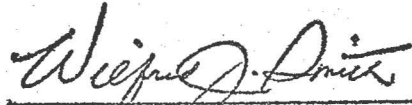
A W A R D

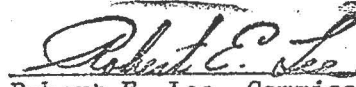
An award is hereby made to BELA DEVAI in the principal amount of Five Hundred Twenty Dollars (\$520.00), with interest thereon at the rate of 6% per annum from January 3, 1972, the date when the claim arose, to March 6, 1973, the date when the Hungarian Claims Agreement entered into force, in the sum of Thirty-six Dollars and Sixty-six Cents (\$36.66).

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

12 MAY 1977

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on 12 MAY 1977


Wilfred J. Smith, Commissioner


Robert E. Lee, Commissioner


Executive Director

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

IN THE MATTER OF THE CLAIM OF

BELA DEVAI

Under the International Claims Settlement
Act of 1949, as amended

Claim No. HUNG-2-815

Decision No. HUNG-2-0894

PROPOSED DECISION

This claim in the asserted amount of \$24,455.00 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 asserted loss of real property and business interests located at No. 158-93 Tuskepuszta and No. 47 Kossuth Street, Dombovar, Hungary.

Claimant states that he acquired United States nationality on September 3, 1957, 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.

Claimant, BELA DEVAI, stated at the time of filing that the property on which this claim is based were nationalized or otherwise taken by the Government of Hungary before 1955 and in 1970.

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 the date and manner of the asserted takings 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 January 12, 1976.

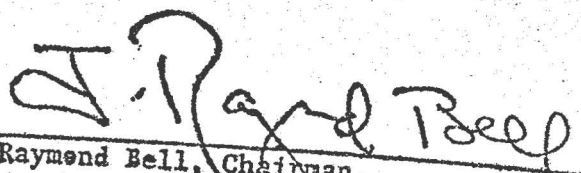
No response to this letter or evidence having been received, the Commission again requested, by letter dated April 23, 1976, that documentation be submitted to establish the loss asserted. Claimant was also advised that it may become necessary for the Commission to reach a determination on the claim based upon the record available 60 days after April 23, 1976.

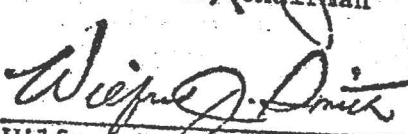
No response or evidence having been received to date, the Commission finds that the claimant, who asserts a loss of certain property in Hungary has not met the burden of proof in that he has failed to establish that the subject properties were nationalized or otherwise taken by the Government of Hungary 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.

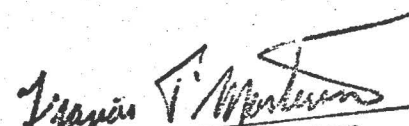
Dated at Washington, D.C.
and entered as the Proposed
Decision of the Commission.

7 JUL 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 10 AUG 1976


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.)

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.)