

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

IN THE MATTER OF THE CLAIM OF

ZOLTAN GERGELY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. HUNG-2-648

Decision No. HUNG-2-1017

PROPOSED DECISION

This claim in the asserted amount of \$21,000.00 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 loss of old age pension benefits due from the Government of Hungary.

Claimant, ZOLTAN GERGELY, states that he acquired United States nationality on August 26, 1964, by naturalization.

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.

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.

It is stated by the claimant, ZOLTAN GERGELY, that he paid premiums to the Hungarian State Pension Fund for approximately 40 years on account of his employment by the Hungarian Commercial Bank of Pest and the Hungarian National Bank between September 2, 1918, and November 7, 1957.

The claimant emigrated to the United States in November 1957. Shortly thereafter, on December 24, 1958, Section 61 and 62 of Decree 67/1958. (XII.24.) Korm. went into effect which provided that no pension benefits may be disbursed to a person who left the country.

The claimant assertedly acquired nationality of the United States on August 26, 1964, by naturalization. There is no action by the Government of Hungary, following such date, which may be construed as a "nationalization, compulsory liquidation, or other taking" of the claimant's right to receive his monthly pension payments. The fact that the Government of Hungary does not pay its obligation, does not amount to a "nationalization compulsory liquidation, or other taking" of property. The Commission has consistently held that nonpayment of contractual obligations does

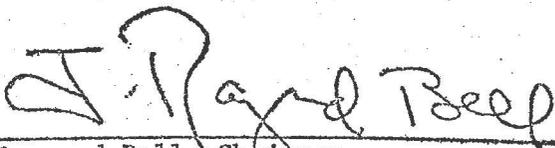
not constitute such action. Accordingly, the Commission concludes that this claim is not compensable under subsection 303(5) of the Act, supra, because the claimant has failed to establish that his right to receive old age pension benefits was "nationalized, compulsorily liquidated, or otherwise taken" by the Government of Hungary.

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

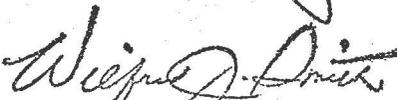
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

15 SEP 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 19 OCT 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.)