

own experiences and those of their relatives, historians of World War II, and brave Hungarian attorneys, researchers, and civilians. Records, archives, and living memories have been canvassed for details about events in Hungary that took place between March and October 1944 in which 437,000 Hungarian Jews were transported on the defendant's railroads to the gas ovens of Auschwitz—characterized by Winston Churchill as “probably the greatest and most horrible crime ever committed in the history of the world.”

JURISDICTION

1. Plaintiffs are alien victims, heirs, or next-of-kin of Jews killed in the Hungarian Holocaust of 1944, the most heinous violation of international law. The list of plaintiffs is given in Appendix A. Plaintiffs sue under the Alien Torts Claims Act, 28 U.S.C. § 1350 which gives district courts original jurisdiction over any civil action by an alien for a tort only, committed in violation of international law.

2. Defendant Hungarian State Railways (hereinafter “MAV”) is a wholly-owned instrumentality of the Hungarian government. Jurisdiction over MAV is based upon 28 U.S.C. § 1605(a) which provides that

A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States . . . in any case . . . (3) in which rights in property taken in violation of international law are in issue and . . . that property or any property exchanged for such property is owned or operated by an agency or instrumentality of the foreign state and that agency or instrumentality is engaged in a commercial activity in the United States . . .

Defendant MAV looted the plaintiffs' rights in property in violation of the international-law prohibition against genocide. It kept that property or any property exchanged for such property. There is no statutory requirement that the property itself must be present in the United States. All that is required is that defendant MAV is engaged in commercial

activity in the United States. This final requirement is satisfied by the fact that MAV sells tickets and passes for its railways through its agents in the United States.

VENUE

3. Venue is proper under 28 U.S.C. § 1391(f)(3).

STATEMENT OF FACTS

4. Unless otherwise indicated, the “Statement of Facts” section of this Complaint is stated upon information and belief, based on published research, newspaper reports, and photographs, concerning MAV’s activities in 1944 and afterwards.

5. Plaintiffs, who are Hungarian Jewish victims of the Hungarian Holocaust or their heirs or next of kin, on behalf of themselves and all others similarly situated, bring this action for compensation, restitution, reparations, and punitive damages against the defendant Hungarian National Railroad (hereinafter “MAV”) for

(a) active participation in the Nazi genocide of 1944 in Hungary by knowingly providing the trains for delivering 437,000 Jews to their deaths in Auschwitz and murdering many of them along the way under the subhuman conditions of the transportation ;

(b) aiding and abetting the Nazi genocide of 1944;

(c) looting the plaintiffs’ possessions, valuables, heirlooms, stock certificates, currency, and jewelry from the plaintiffs’ luggage, then destroying the plaintiffs’ baggage receipts, destroying records of these thefts, falsely denying that it committed any of these acts, and engaging in concealment of these crimes to the present day.

6. By 1940 the Hungarian Jewish minority numbered 5% of the total population of Hungary, yet they owned 20% to 25% of its wealth.

7. In the professions, Jews made up 49% of the practicing attorneys, 55% of the physicians, 30% of the engineers, 60% of bank officials, and 46% of salespersons. Jews owned 49% of metallurgical works, 42% of machine manufacturing, 73% of clothes manufacturing, and 65% of the spinning and weaving industry. Hungarian Jewry earned one-quarter of the national income of Hungary.

8. On the eve of the Holocaust in 1944, according to the Randolph Braham, author of the definitive history of the Hungarian Holocaust, Jewish assets in Hungary had a market value between 7 and 9 billion gold Pengos. A recent revaluation of Braham's calculations places the figure between 7 and 12 billion Pengos. At the time, a Pengo was officially convertible into 20 cents in U.S. currency, although it sold for less on the black market.

9. The Hungarian Holocaust described by Churchill lasted for seven months between March and October, 1944. At its start, the net value of Jewish assets in Hungary was between 7 and 12 billion Pengos. At the termination of the Holocaust, the net value of Jewish assets in Hungary was several hundred thousand Pengos.

10. Approximately 437,000 Hungarian Jews were rounded up and sent to Auschwitz to be worked or starved to death, shot along the way, or gassed, during the months of March through October, 1944. Some managed to survive at Auschwitz or in the concentration camps en route to Auschwitz until liberated by the victorious Allied troops the spring and summer of 1945. Others managed to leave Hungary before being rounded up in the fateful months of 1944.

11. Although the Hungarian genocide was the single most extensive and brutal of all the Nazi genocides of World War II, at the present date not even one per cent of the Hungarian victims' financial losses has been restituted. This is in sharp contrast to other Holocaust-reparations initiatives that have been successfully prosecuted against other states and their

instrumentalities. But in the case of Hungary, its agencies and instrumentalities so far have stalled, stonewalled, stridently misled, and falsely denied their role as profiteers from the Hungarian Holocaust. The worst offender has been MAV, which has not paid a Pengo to the plaintiffs.

12. By the spring of 1944, it was obvious to the German generals and the leaders of the SS and Gestapo that their world war was irretrievably lost. German soldiers kept fighting in a hopeless cause; the Allies were bombing at will the main cities of Germany, including Berlin; and there were failed German plots to assassinate Hitler. But there was a group of SS fanatics, led by Hitler's secretary Adolf Eichmann, who were determined to salvage Hitler's principal ideological war aim: the annihilation of Europe's Jewry—to bring about in the face of total defeat the so-called “Final Solution.”

13. An SS spearhead under Eichmann entered Hungary in March 1944. They were determined to exterminate Hungary's Jews. This last gasp of the Final Solution ironically turned out to be its deadliest. More Jews were sent to their deaths in the brief period from March to October 1944, in Hungary, than from any other occupied country during the entirety of the Second World War.

14. By 1944, Nazi experience in carrying out the Holocaust in various countries made their Hungarian operations brutally efficient. Rounding up the people, packing them on the trains, assuring them that the luggage they left behind would be placed in a separate baggage car, then transporting them to Auschwitz where they were immediately led to the showers of poisonous gas, was a production line in death.

15. The defendant MAV knew exactly what it was doing. It was using nearly all of its trains day and night to transport people one-way to Auschwitz. The trains were empty as they

rattled along the tracks back to Hungary. Without the trains provided by MAV, hundreds of thousands of Jews could not have been transported to Auschwitz.

16. Hungarian Jewish families in rural areas were the first to be stripped of their possessions and deported to Auschwitz, followed by the Jews in the big cities. The latter were driven from place to place, uprooted and separated them from their furnished and familiar surroundings. They were told that they had to leave their homes and apartments for security reasons. Finally it was their turn to be led to the train station.

17. The SS supervised the methodical selection of almost a half million human beings—patriots, judges, magistrates, bureaucrats, business leaders, lawyers, doctors, merchants, shopkeepers, farmers, bankers, artists and artisans, factory owners, factory workers—whose only distinguishing human characteristic was that they had been born into a ethno-religious group that constituted a minority within Hungary.

18. For the first round-up and shipment of Hungarian Jews to Auschwitz, on March 19, 1944, the Nazis picked out of the Budapest telephone book 200 lawyers and doctors with Jewish names. These lawyers and doctors were engaged in purely private practice and had no governmental connections (Hungarian Jews who had actual connections to the Hungarian government were on a separate target list). Upon the orders of Otto Winkelmann, Himmler's immediate representative in Hungary with jurisdiction over the main Gestapo, SS, and German police units in Hungary, the Security Police of the SS arrested these professional persons and their families and took them to the notorious Mauthausen concentration camp. From there they were packed into the first Hungarian trains headed for the death camps in Auschwitz. Winkelmann correctly assumed that the doctors and lawyers would be living in some of the most desirable homes and apartments in Budapest. By arresting them immediately, Winkelmann was

able to requisition their homes and apartments to the top echelon of the Gestapo, SS, and German police, and thus incur the gratitude of his subordinates. As the Germans moved into the living units of the lawyers and doctors, they “inherited” some of the most desirable fully-furnished and fully-functional locations in Budapest, all rent-free. They were able to live there in comfort for the next twelve months until Germany’s capitulation to the Allied military forces.

19. The 200 lawyers and doctors constituted merely the first wave of deportations. Judges, magistrates, bureaucrats, officials, government workers, and their families, were arrested individually. Eventually 437,000 persons were sent to Auschwitz to be gassed. They were taken out of their homes and apartments and were each allowed to keep one suitcase of family valuables. After a series of relocations to other living units, including factories, warehouses, fields, and concentration camps, they were marched to the defendant’s railroad stations without knowing that they were being sent to their death.

20. Wearing their best clothes and carrying one suitcase apiece, the Hungarian Jews walked with dignity to the railroad stations.



21. Their suitcases contained many of their valuables; some were placed in safe-deposit boxes. A typical suitcase would contain cash, jewelry, stock certificates, bonds, family heirlooms, gold, silverware, and antiques. Jews from the farms and countryside who did not use safe deposit boxes stuffed all their money and every valuable they owned into the suitcases.

22. Upon arrival at the train station, the Jews were told to place their suitcases in a depot area where they would be loaded into the train's baggage cars by railroad personnel. The suitcases were piled on top of each other, resulting in piles as tall as six feet. The Jews then were loaded into box cars and cattle cars. As soon as the train left the station, railroad employees and their friends leaped upon the piles of suitcases, tearing them open with knives and pliers, and grabbing every valuable item.



PHOTO SHOWING JEWS ENTERING BOXCARS LABELED "MAV"

23. MAV chose to operate the death trains to the complete satisfaction of Eichmann's needs. It made available the necessary rolling stock, scheduled the trips night and day, and cleaned and disinfected the cars after the trips. MAV supervised and managed every aspect of the transportation process. MAV knew that conditions on the trains would cause many to die. The interior heat of the unventilated cars, coupled with the lack of water to assuage the thirst of the passengers, in fact resulted in many deaths and severe mental impairments. The sick, the elderly, pregnant women, babies and young children were treated with equal brutality by MAV's agents. The trains bound to Auschwitz would be stopped at intervals, allowing railroad employees to remove the dead bodies and the persons who had gone mad. MAV employees had dug ditches in advance to receive the dead bodies and bury them. The persons who showed signs of mental illness were led to the edge of the ditches and then shot by MAV employees.

24. By the time the surviving passengers arrived at Auschwitz, they were numb and docile. The journey had drained from them the will to resist. There were so many of them that there was hardly any room to keep them overnight. Immediately after being stripped of whatever valuables they may have concealed on their persons, the children, women, and men were led naked into the gas chambers where they were told they had to take a shower for sanitary reasons.

25. Even though discussion of money is necessarily crass in the context of the unspeakable evil that was inflicted upon the Holocaust victims, nevertheless the law is powerless to do anything other than to obtain financial restitution.

26. The evil inflicted upon the Hungarian Jewry increases with each passing day that MAV is enriched by, and makes use of, the money and valuables they stole from the Jews. The plaintiffs in this lawsuit ask this Court to restore the blood money to the heirs and next of kin of

those who, in their last moment on earth, realized that the showers of Auschwitz were not emitting water but rather were spewing forth Zyklon-B.

27. A conservative estimate of the money and valuables looted from the Jews at MAV's train stations is 8% of the total value of Jewish wealth in Hungary in 1944. Thus, 8% x \$3,000,000,000 = \$240,000,000 in 1944 U.S. dollars. The dollar has appreciated approximately 33 times since 1944.

CLASS ACTION ALLEGATIONS

28. Plaintiffs bring this class action on behalf of themselves and all victims, heirs of victims, or next-of-kin of victims, of the Hungarian Holocaust of 1944.

29. Questions of law and fact that are common to members of the Class predominate over questions that affect only individual members. Among the questions of law and fact that are common to the Class are:

- (a) the transport of Jews from various parts of Hungary via defendant's trains to the Nazi death camp at Auschwitz in the time period from March to October, 1944;
- (b) the looting of all their hand-carried valuables by defendant's employees;
- (c) the inhuman conditions of the transport of victims in defendant's boxcars and cattle cars, resulting in disorientation, extreme fatigue, numbness, and in some cases mental illness;
- (d) the murder of a number of victims by defendant's employees;
- (e) defendant's participation in genocide;
- (f) defendant's complicity in genocide ("aiding and abetting")

30. Plaintiffs will fairly and adequately protect the interests of the Class because plaintiffs' interests are coincident with, and not antagonistic to, those of the Class. Plaintiffs have retained counsel with substantial experience in international law.

31. Class action treatment is superior to the alternatives for the fair and efficient adjudication of the controversy alleged herein. Such treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would entail. No difficulties are likely to be encountered in the management of this case that would preclude its maintenance as a class action.

32. Defendant has acted on grounds generally applicable to the entire Class, acceding knowingly with the Nazi program of treating the Class as a minority ethno-religious group to be exterminated as such, and thereby making final relief appropriate with respect to the Class as a whole.

33. Prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications with respect to individual members of the Class, which in turn might establish incompatible standards of conduct for Defendant.

34. Defendant continues to deny and conceal its participation in and facilitation of the Hungarian genocide of 1944, to deny and conceal its continued withholding of looted assets, and to stonewall all legitimate inquiries aimed at financial restitution for the victims and their heirs and next of kin.

FIRST CAUSE OF ACTION

35. Defendant and its employees stole plaintiffs' personal property, including valuables and rights in property, in conjunction with and furtherance of its participation in genocide.

36. The United States has signed and ratified the Convention on Genocide, which is now part of the law of the United States under the Supremacy Clause of the Constitution. 18 U.S.C. § 1091 defines genocide as:

Whoever, whether in time of peace or in time of war and with the specific intent to destroy, in whole or in substantial part, a national, ethnic, racial, or religious group as such--

- (1) kills members of that group;
- (2) causes serious bodily injury to members of that group;
- (3) causes the permanent impairment of the mental faculties of members of the group through drugs, torture, or similar techniques;
- (4) subjects the group to conditions of life that are intended to cause the physical destruction of the group in whole or in part;

37. Paragraphs 9 – 24 of this Complaint, herein incorporated by reference, spell out the defendant's culpable actions as a looter of Jewish assets because of its participation in genocide.

SECOND CAUSE OF ACTION

38. Defendant and its employees stole plaintiffs' personal property, including valuables and rights in property, in conjunction with and furtherance of its complicity in genocide.

39. By making its trains available at all hours of the day and night to the Nazis who were sending Hungarian Jews to their death as rapidly as possible in 1944, defendant was complicit in, and aided and abetted, the Nazi genocide.

40. The United States has signed and ratified the Convention on Genocide, which is now part of the law of the United States under the Supremacy Clause of the Constitution. 18 U.S.C. § 1091. The standard international definition of Genocide is

any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.

41. Paragraphs 9 – 24 of this Complaint, herein incorporated by reference, spell out the defendant's culpable actions as a looter of Jewish assets in conjunction with its aiding and abetting the crime of genocide.

WHEREFORE, plaintiffs ask this Court to

- (a) award the plaintiff class the sum of \$240,000,000 as the value of its stolen property, to be adjusted upward from its purchasing power in 1944 to its present-day value;
- (b) award the plaintiff class (2/3) and their attorneys (1/3) the sum of \$1,000,000,000, as punitive damages reflecting the heinous and zealous participation by the defendants in genocide and in light of the fact that no other law firm in 66 years has been motivated or has seen fit to bring such a case;
- (c) award plaintiffs the costs of bringing this action;
- (d) and grant such other relief as the Court deems proper and just.

Respectfully submitted,

/s/ Anthony D'Amato
Leighton Professor of Law

Northwestern University School of Law
375 E. Chicago Avenue
Chicago, Illinois 60611
(312) 503-8474
(312) 587-9969 (fax)
a-damato@northwestern.edu

ROBERT JAMES PAVICH
Monico Pavich & Spevack
20 South Clark Street, Suite 700
Chicago, Illinois 60603
(312) 782-8500
(312) 853-2187 (FAX)
rpavich@monicopavich.com

JOHN J. PAVICH
Monico Pavich & Spevack
20 South Clark Street, Suite 700
Chicago, Illinois 60603
(312) 782-8500
(312) 853-2187 (FAX)
jjpavich@psaint.com

APPENDIX A

The following plaintiffs in this case are listed by the countries in which they now reside:

Residents of the United States: George Bass, Annie Weiss Bass, Paul Csillag, Gabriel Erem, Edie Elefant Ever, Steven Farago, Aharon Fischer, Chaim Shlomo Fischer, Paul Fischer, Viki Frishman Fliman, Francis Fodor, Erno Friedman, Paula Rosenberg Friedman, Andras Gottdiener Gal, Eva Wanda Gottdiener, David Ganti, Elisabeth Goldstein, Louis Goldstein, Herman Klein, Sandor Klein, Efraim Popovich, Eva Revesz Weinberger, Moshe Weiss.

Resident of the United Kingdom: Istvan Somogyi

Resident of Brazil: Janos Somogyi

Resident of Hungary: Gabriella Gluck

Residents of Israel: Beno Abelesz, Yehudit Aron Shalom, Gad Bar Levav, Yosef Barak Bohn, Miriam Hegedus Benedek, Magdalena Izsak Birnbaum, Eva Pollak Borgida, Marta Gluck Eitan, Ernest Feder, Alexiu Ferencz, Azriel Feuerstein, Yehuda Fried, Orit Gutt Friedler, Yuri Frishman, Nomi Balaz Galil, Erwin Gellis, Andrew Gergely-Jungreis, Shoshana Szego Gertler, Avaham Guth, Yithak Haar, Endre Haar, Wanda Harel, Efraim Hausen, Alexnder Jakab, Gavriel Kaldor, Edit Klein, Tova Krausz, Gisella Salamonovics Krausz, Yeshayahu Krausz, Imre Krausz, Shoshana Lederer, Samuel Meisels, Leipold Moses, Tere Mozes, Gabriel Neuman, Yitzchak Peleg, Laszlo Pollacsek, Mosha Porat, Erno Porat, Marta Bella Bonyhadi Porzesz, Adel Reichmann, Bela Revitz, Dov Revitz, Eva Rona, Yosef Rosenberg, Imre Rosenberg, Tiberiu Rosenberg, Tzipora roth, Anna Jakabovics Roth, Ron Sarel, Yehudi Sarel, Chava ibor Schick, Susanne Schnabel, Edit Berger Shmueli, Emanuel Schwimmer, Veronika Horovitz Simon, Zsusanna Kallai Snir, Rozalia Samuel Stark, Adela Weiss Stern, Yehudi Kac Stern, Vera Heves

Vmos, Sara Korn Weiss, Yitzchak Weisz, Laszlo Weisz, Frank Weltinger, Judith Rosenfield
Westwood, Helena Neuhauser Wileim, Ilona Newhauser Wilhelm, Yolanda Stern Wilhelm.