

FD-1

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

JACOB RUFF
BARBARA RUFF
535 Fassen Street
St. Louis, Missouri

Claim No. RUM-30,395

Decision No. RUM- 263

Under the International Claims Settlement
Act of 1949, as amended

GPO 16-72126-1

Counsel for claimant:

J. Jules Brinkman, Esquire
705 Olive Street
St. Louis, Missouri

PROPOSED DECISION

This is a claim against the Government of Rumania under Section 303 of the International Claims Settlement Act of 1949, as amended, for the value of certain real and personal property in Rumania from which claimants state they were "dispossessed" in 1944. Claimants have filed declarations of intention to become citizens of the United States, but had not become such citizens as late as September 19, 1956, the date on which the official form for asserting this claim was executed.

Section 303(2) of the Act provides for the receipt and determination by the Commission in accordance with applicable substantive law, including international law, of the validity and amounts of claims of nationals of the United States against the Government of Rumania, among others, arising out of the failure of such government to pay effective compensation for the nationalization, compulsory liquidation, or other taking, prior to August 9, 1955, of the property in Rumania of nationals of the United States.

Under well established principles of international law, unless

otherwise provided by treaty, in order for a claim espoused by the United States to be compensable, the property upon which it is based must have been owned by a national or nationals of the United States at the time of loss, and the claim which arose from such loss must have been owned by a United States national or nationals continuously thereafter.

Accordingly, the Commission finds that the claim is not compensable under Section 303(2) of the Act, for the reason that it has not been established that it was owned by a United States national at the time that claimant contends it arose.

Similarly, when considered under the provisions of Section 303(1) of the Act, which relate to claims for damage during World War II, this claim is found to be not compensable. Section 303(1) authorizes, inter alia, receipt and determination of claims of United States nationals for failure of the Government of Rumania to restore or pay compensation for property of nationals of the United States as required by articles 24 and 25 of the treaty of peace with Rumania. Article 24 provides for the restoration of rights and return of property of the United Nations and their nationals and for the payment of compensation to United Nations nationals whose property suffered war damage or can not be returned, and United Nations nationality is made to depend either upon nationality in any one of the United Nations on September 12, 1944, the date of the armistice with Rumania, or upon having been treated as an enemy under the laws in force in Rumania during the war. Article 25 requires the restoration of, or compensation for, property which was the subject of measures of sequestration, confiscation or control on account of the racial origin or religion of persons under Rumanian jurisdiction.

However, claims under Section 303(1) of the International Claims Settlement Act are restricted by the language of the Act itself to those owned by United States nationals. As to such claims, the customary rule of international law as to the national character of a claim is modified

by application of provisions of the treaty and the Act, so that a claim arising under the treaty may be found compensable under Section 303(1) if the property on which it is founded, or the claim arising from loss of the property, was owned by a national or nationals of the United States on September 12, 1944, the date of the armistice with Rumania, and continuously thereafter. In the instant case, however, it is found that it has not been established that either the property or the claim was owned by a United States national on September 12, 1944, and the claim may not, therefore, be considered compensable under Section 303(1).

Moreover, it has been determined by this Commission^{1/} that a person who has filed a declaration of intention to become a citizen of the United States does not, while in such status, owe permanent allegiance to the United States and hence does not fall within the category "nationals of the United States."

Accordingly, the Commission finds that it has not been established that the claim was owned by a United States national at the time that claimant contends it arose, or on September 12, 1944, and it is, therefore, denied. The Commission finds it unnecessary to make determinations with respect to other elements of the claim. *Wend*

Dated at Washington, D. C.

OCT 9 1957

FOR THE COMMISSION

Donald G. Benn
Donald G. Benn, Director
Balkan Claims Division *btm*

^{1/} In the Matter of the Claim of Szabolcs Szunyogh, HUNG-22,185, DEC. HUNG-333.