

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

In the Matter of the Claim of

GEORGE GOLDFINGER
421 Melrose
Chicago 13, Illinois

Claim No. RUM-30,300

Decision No. RUM-252

Against the Government of Rumania
Under Section 303 of the International
Claims Settlement Act of 1949, as amended

Counsel for Claimant:

Benjamin B. Ferencz, Esquire
21 East 40th Street
New York 16, New York

FINAL DECISION

The Commission issued its Proposed Decision on this claim on September 25, 1957, a certified copy of which was duly served upon the claimant(s). Full consideration having been given to the objections of the claimant(s), filed within the twenty-day period after such service which has now expired, and general notice of the Proposed Decision having been given by posting for thirty days, it is

ORDERED that such Proposed Decision be and the same is hereby entered as the Final Decision on this claim.

Dated at Washington, D. C.

MAY 28 1958

Whitney Hilliland

Paul H. ...

Henry J. ...

COMMISSIONERS

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GPO 16-72126-1

Counsel for the Claimant:

Guzik and Boukstein
Attorneys at Law
150 Broadway
New York 38, New York

PROPOSED DECISION

This is a claim against the Government of Rumania under section 303 of the International Claims Settlement Act of 1949, as amended, by George Goldfinger, a citizen of the United States since November 4, 1948, for the value of certain real property in Rumania and a debt due from a private concern in Rumania. Claimant alleges that he acquired an interest in the property from his father, a Polish national, upon his death on June 12, 1952.

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

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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 it allegedly 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 and 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. The Commission finds that it has not been established that either the property or the claim was owned by a United States national on September 12, 1944.

Section 303(3) of the Act provides for claims based upon the failure of the Government of Rumania to meet obligations expressed in currency of the United States arising out of contractual or other rights acquired by nationals of the United States prior to September 1, 1939 and which became payable prior to September 15, 1947.

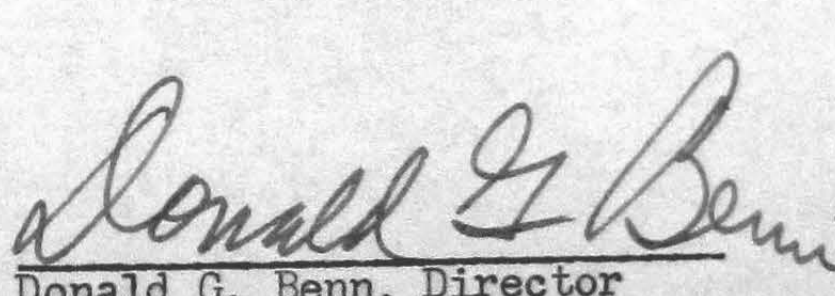
With respect to that portion of the claim which is based on a debt due from a Rumanian concern, the Commission finds it is not compensable for the reason that it has not been established that the Government of Rumania was responsible for the debt in question, or that the obligations were expressed in currency of the United States, or that the rights involved were acquired by nationals of the United States prior to September 1, 1939.

For the foregoing reasons, this claim is denied. The Commission deems it unnecessary to consider other elements of this claim.

Dated at Washington, D. C.

SEP 25 1957

FOR THE COMMISSION:


Donald G. Benn, Director
Balkan Claims Division

W.B.