

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

IN THE MATTER OF THE CLAIM OF

LAURA RAUL
40 Park Avenue
New York 16, New York

Claim No. RUM-30,592

Decision No. RUM-352

Against the Government of Rumania

Under the International Claims Settlement
Act of 1949, as amended

GPO 16-72126-1

Counsel for Claimant:

Green and Ettinger
Empire State Building
350 Fifth Avenue
New York 1, New York

FINAL DECISION

This is a claim for nine thousand, four hundred sixty-five dollars (\$9,465.00) under the provisions of Section 303(3) of the International Claims Settlement Act of 1949, as amended, against the Government of Rumania by LAURA RAUL, a citizen of the United States since her birth in the United States on February 25, 1907, for the failure of the said government to meet its contractual obligations; namely, six 7% Kingdom of Rumania Monopolies Institute bonds of the denomination of one thousand dollars each (numbered M 107 to M 112, inclusive), issued in 1929, under the terms of which the Government of Rumania agreed to pay to holders the sum of \$35.00 for each \$1,000.00 in principal amount held, semiannually on February 1st and on August 1st of each year until the maturity date of the bond issue on February 1, 1959.

The record shows that these bonds were purchased and given to the claimant in 1931, by her father, Leo Raul, a national of the United States since his naturalization on July 20, 1906. Consequently, the obligations were acquired by a national of the United States prior to

September 1, 1939, as required by Section 303(3) of the Act, and continuously owned by her thereafter.

The subject bonds and their attached interest coupons bear surcharges which change their tenor in several respects. Most significant to this claim is one which made them payable in Austrian schilling, rather than in dollars, as theretofore.

In a Proposed Decision, dated March 6, 1958, the claim was denied on the ground that although these bonds represent obligations of the Government of Rumania, they are not "expressed in currency of the United States", as required by Section 303(3) of the Act.

Upon consideration of additional evidence submitted by the claimant since the issuance of the Proposed Decision, and of the arguments contained in her objections and brief, the Commission, finds that the surcharges above described, which purported, inter alia, to change the medium of currency expressed in the subject bonds, were affixed pursuant to an "Accord" entered into in 1937.

The Commission further finds that the bonds in question fell into default under the terms of the "Accord", by failure of payment of interest due in July, 1939 and thereafter. Moreover, this default constituted a failure of satisfaction which relegated the parties to their original agreement, under which payment of these bonds, and interest thereon, was to be in United States currency. With respect to interest dates, they were reverted to those expressed in the bonds, starting with the coupon due on August 1, 1939.

As above stated, the Commission finds that, commencing with the payment which fell due on August 1st, 1939, no payments on account of interest have been made to date by the Government of Rumania with respect to claimant's bonds. Thus, the Commission finds that from August 1st, 1939 to September 15th, 1947, the Government of Rumania failed to meet its obligations under claimant's bond contracts to make payments to her totalling three thousand, five hundred seventy dollars (\$3,570.00).

Henry S. Clay

Section 303(3) of the Act authorizes the Commission to receive and determine, among other claims, those based on 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, in the case of...Rumania, and which became payable to September 15, 1947.

Accordingly, the Commission has concluded that any award under the above provisions of the Act may include only unpaid amounts which by the terms of the bond contracts were payable prior to September 15, 1947, and may not include any amounts which became payable thereafter.

To the extent to which the Proposed Decision of March 6, 1958 is in conflict with this Decision, it is reversed; to the extent to which it is in accord, it is affirmed.

A W A R D

On the above evidence and grounds, this claim is allowed and an award is hereby made to LAURA RAUL, claimant herein, in the amount of three thousand, five hundred seventy dollars (\$3,570.00), plus interest thereon at the rate of 6% per annum from the respective due dates of the obligations represented by the above award to August 9, 1955, the effective date of Section 303 in the amount of two thousand, five hundred seventy-four dollars and forty-eight cents (\$2,574.48), and it is

ORDERED that the award herein granted be certified to the Secretary of the Treasury.

Payment of the award herein shall not be construed to have divested claimant herein or the Government of the United States, on her behalf, of any rights against the Government of Rumania, for the unpaid balance of the claim, if any.

Dated at Washington, D. C.

AUG 13 1958

Whitney Gilliland

Pearl Pace

Henry S. Clay

COMMISSIONERS

(A)
D.S.B.
MJS

Commissioner Clay, dissenting:

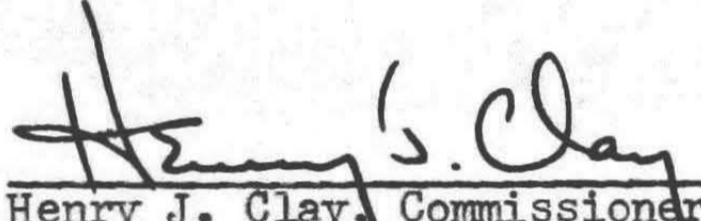
The award made here is, in my opinion, something less than the claimant is entitled to. There is good and valid reason why payment should be made on the basic bond obligation.

My reasoning for this position is set forth in the dissent noted in the claim of Arthur Zentler (RUM-30,044), decided by the Commission on April 10, 1957, a copy of which is annexed hereto.

The claimant should be compensated for the six \$1000 bonds of the Kingdom of Rumania Monopolies Institute issued in 1929, due February 1, 1959.

Dated at Washington, D. C.

AUG 13 1958


Henry J. Clay, Commissioner

(7)
JTB.

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LAURA RAUL
40 Park Avenue
New York 16, New York

Claim No. RUM-30,592

Decision No. RUM-352

Under the International Claims Settlement
Act of 1949, as amended

GPO 16-72128-1

Counsel for Claimant:

Green and Ettinger
Empire State Building
350 Fifth Avenue
New York 1, New York

PROPOSED DECISION

This is a claim for nine thousand, four hundred sixty-five dollars (\$9,465.00) under the provisions of the International Claims Settlement Act of 1949, as amended, against the Government of Rumania by LAURA RAUL, for the failure of the said government to meet its contractual obligations.

The claimant bases her claim upon six 7% Kingdom of Rumania Monopolies Institute bonds of the denomination of one thousand United States dollars each (numbered M107 to M112, inclusive), due February 1, 1959. She states that interest has been in default since August, 1939, and that an acceleration clause in the bonds provides that in the event of default, the whole amount of the principle and interest remaining due and unpaid at the time thereof shall immediately become due and payable.

Inspection of the above bonds reveals that they are of the Austrian series, and bear a superimposed legend evidencing that they were converted, by an agreement dated April 16, 1937, into bonds payable, as to both principle and interest, in Austrian schillings, with interest

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payable at rates and on dates other than those provided in the original contracts. With the conversion of the said bond contracts as above described, they become obligations expressed in a currency other than that of the United States.

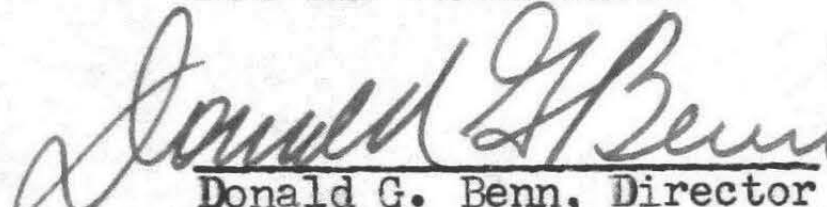
Section 303(3), the only provision of the cited Act authorizing the Commission to receive and determine claims based upon the failure of the Government of Rumania to meet its contractual obligations, specifically provides that such obligations as come within its purview must be "expressed in currency of the United States." Thus, claims based upon obligations expressed in currencies other than that of the United States are not compensable under the International Claims Settlement Act of 1949, as amended.

Accordingly, this claim is denied. The Commission deems it unnecessary to consider other elements of this claim.

Dated at Washington, D. C.

MAR 6 1958

FOR THE COMMISSION:


Donald G. Benn, Director
Balkan Claims Division



