

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

IN THE MATTER OF THE CLAIM OF

JOHN LIEHN
25 Locust Grove Drive
Clark Township, New Jersey

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

Claim No. RUM-30,893

Decision No. RUM-623

GPO 16-72126-1

FINAL DECISION

The Commission issued its Proposed Decision on this claim on December 8, 1958, a copy of which was duly served upon the claimant (✓). No objections or request for a hearing having been filed within twenty days after such service 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 the claim, and it is further

ORDERED that the award granted therein be certified to the Secretary of the Treasury

Dated at Washington, D. C.

JAN 26 1959

Whitney Hilliland
Paul Pace
Robert L. Kunzig
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COMMISSIONERS

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PROPOSED DECISION

This claim against the Government of Rumania under Section 303(2) of the International Claims Settlement Act of 1949, as amended, for \$140,000, was filed by JOHN LIEHN, a national of the United States since his naturalization in the United States on September 27, 1935, in his own behalf and on behalf of his sister HELEN M. LIEHN ERNST, for nationalization or other taking of a farm of over 50 acres, plus livestock and machinery, a hotel plus acreage, and furniture and restaurant equipment.

Section 303 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 Governments of Bulgaria, Hungary and Rumania, or any of them, arising out of the failure to --

(1) restore or pay compensation for property of nationals of the United States as required by article 23 of the treaty of peace with Bulgaria, articles 26 and 27 of the treaty of peace with Hungary, and articles 24 and 25 of the treaty of peace with Rumania. Awards under this paragraph shall be in amounts not to exceed two-thirds of the loss or damage actually sustained;

(2) pay effective compensation for the nationalization, compulsory liquidation, or other taking, prior to the effective date of this title, of property of nationals of the United States in Bulgaria, Hungary, and Rumania; and

(3) 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 April 24, 1941, in the case of Bulgaria, and prior to September 1, 1939, in the case of Hungary and Rumania, and which became payable prior to September 15, 1947.

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In order for a claim to be compensable under Section 303(2) of the Act, in accordance with well established principles of international law, the property upon which the claim 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 down to the date of the filing of a claim under this Act.

Evidence of record indicates that HELEN M. LIEHN ERNST was born in the United States on March 3, 1915. In the spring of 1921 she left the United States and resided with her father in Rumania. The records of the Passport Office of the Department of State indicate that on July 30, 1924, a passport was issued to her which could not be renewed without express authorization of the Department of State. The record does not indicate that this passport was used. Thereafter she resided in Austria. On November 13, 1945, she applied for registration as an American citizen. On February 4, 1947, the Legation of the United States at Vienna, Austria, issued a Certificate of Loss of Nationality of the United States, holding that she had expatriated herself under the provisions of Section 401(a) of Chapter IV of the Nationality Act of 1940 by voluntary inclusion in her husband's certificate of naturalization as a German citizen on June 30, 1941, said German naturalization certificate No. 377499/II having been issued to her husband FRIEDRICK ERNST, at Gablitz, Austria (then Germany) on June 30, 1941. The certificate includes the names of his wife, born HELEN LIEHN, and two children.

The Nationality Act of 1940 (54 Stat. 1137) (effective January 13, 1941) provided as follows:

Section 401. A person who is a national of the United States, whether by birth or naturalization, shall lose his nationality by:

(a) Obtaining naturalization in a foreign state, . . .

It appears, therefore, that under the provisions of the Nationality Act of 1940, HELEN M. LIEHN ERNST lost her status as a national of the United States on June 30, 1941. Accordingly, the Commission finds that as to so

much of the claim as pertains to HELEN M. LIEHN ERNST, it has not been established that it was owned by a United States national at the time that it arose and so much of the claim as is made on behalf of HELEN M. LIEHN ERNST is hereby denied.

The Commission finds that the claimant JOHN LIEHN owned an undivided one-half interest in 27 jugar and 193.40 stanjeni of land in Sercaia, Rumania, improved by a farmhouse and related buildings, and by a hotel-restaurant, which was nationalized or otherwise taken without compensation by the Government of Rumania on October 12, 1945, pursuant to Law Decree 87 (Monitorul Oficial No. 68, March 23, 1945). The Commission further finds that the value of a one-half interest in the real property taken was Eight Thousand Twenty-Five Dollars (\$8,025.00).

The above described improved real property was encumbered with a life estate in favor of MATILDA LIEHN GARTNER, mother of the claimant. According to evidence of record she was 53 years of age at the time of taking. The claimant's interest in all the above described real property was, therefore, a remainder interest, and the value of that interest must be determined.

The Commission has adopted as a basis for the valuation of life and remainder interests the Makehamized mortality table, appearing as Table 38 of United States Life Tables and Actuarial Tables 1939-41, and a 3-1/2% interest rate, compounded annually, as prescribed by United States Treasury Department regulations of June 3 and 4, 1952 for the collection of gift and estate taxes, respectively. (See 17 F.R. 4980, 26 C.F.R. 86.19 (f); 17 F.R. 5016, 26 C.F.R. 81.10 (i).) According to that method of valuation a remainder interest in property which is subject to a life estate of a person aged 53 years is valued at 51.623% of the entire estate. Therefore, since the value of one-half of the property in question is \$8,025.00, claimant's remainder interest is valued at \$4,142.75 which is 51.623% of that amount. The Commission concludes therefore that JOHN LIEHN is entitled to an award under Section 303(2) of the Act.

The Commission further finds that the farm was equipped with farm implements and livestock, and that the hotel-restaurant was equipped with certain furnishings, which were apparently taken by the Government of Rumania on October 12, 1945, in the process of taking the real property. The Commission finds that the value of JOHN LIEHN'S one-fourth interest in the personalty of the farm was Five Hundred Dollars (\$500.00) and his one-fourth interest in the furnishings of the hotel restaurant was Seven Hundred Dollars (\$700.00) and concludes that he is entitled to an award under Section 303(2) of the Act.

A W A R D

Pursuant to the provisions of the International Claims Settlement Act of 1949, as amended, an award is hereby made to JOHN LIEHN in the amount of Five Thousand Three Hundred Forty-Two Dollars and Seventy-Five Cents (\$5,342.75), plus interest thereon at the rate of 6% per annum from October 12, 1945 to August 9, 1955, the effective date of the Act, in the amount of Three Thousand One Hundred Forty-Eight Dollars and One Cent (\$3,148.01).

Payment of any part of this award shall not be construed to have divested JOHN LIEHN, or the Government of the United States, on his behalf, of any rights against the Government of Rumania for the unpaid balance of the claim, if any.

Dated at Washington, D. C.

DEC 8 1958

FOR THE COMMISSION:

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