

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

IN THE MATTER OF THE CLAIM OF

MARTHA McINTYRE and
ARCHIBALD BLUE McINTYRE
6306 Jefferson Street
West New York, New Jersey

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

Claim No. RUM-30,562

Decision No. RUM-539

GPO 16-72126-1

Counsel for Claimants:

Frederick S. Dunn, Esquire
4700 Bergenline Avenue
Union City, New Jersey

FINAL DECISION

The Commission issued its Proposed Decision on this claim on **October 10, 1958**, a copy of which was duly served upon the claimant(s). 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 this claim.

Dated at Washington, D. C.

NOV 24 1958

Whitney Gilliland

Robert L. Kusyig

Robert L. Kusyig

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HL
mgf

COMMISSIONERS

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PROPOSED DECISION

This is a claim against the Government of Rumania under Section 303 of the International Claims Settlement Act of 1949, as amended, in the total sum of \$28,379.00, by MARTHA McINTYRE and ARCHIBALD BLUE McINTYRE, husband and wife. ARCHIBALD BLUE McINTYRE became a national of the United States by naturalization on April 30, 1951, having been theretofore a subject of Great Britain. MARTHA McINTYRE, on the other hand, became a United States national by birth in New York, New York on December 11, 1883, but lost that nationality by her marriage to the co-claimant, then a subject of Great Britain, on February 4, 1903. On March 21, 1949, MARTHA McINTYRE regained her United States nationality by naturalization. Thus, prior to April 30, 1951, ARCHIBALD BLUE McINTYRE was not a national of the United States, and from February 4, 1903 to March 21, 1949, MARTHA McINTYRE was not a United States national.

MR. McINTYRE'S claim is based upon war damages suffered by personal property owned by him in Rumania, during World War I. These damages were the subject of investigation by the "First District Commission for the Ascertaining and Estimation of War Damages, Ilfov Court, First Commercial Section" of the Kingdom of Rumania, which, by Decision No. 246, dated

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July 10, 1920, fixed his compensation at the sum of 87,700 lei.

The first part of MRS. McINTYRE's claim is based upon the expropriation without compensation of real property said to have been taken by the Government of Rumania on July 12, 1944.

It would appear that MR. McINTYRE'S claim is based upon Section 303(1) of the Act, and that the part of his wife's claim which is above described is based upon Section 303(2) of the Act.

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 of MARTHA McINTYRE for the expropriation of real property on July 12, 1944 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 it arose.

The claim of ARCHIBALD BLUE McINTYRE, considered under Section 303(1) of the Act, is found to be not compensable. That section was designed to provide compensation for losses sustained by qualified claimants as a result of the failure of Rumania, inter alia, to honor its obligations under the Treaty of Peace which ended World War II. It does not authorize the Commission to receive and determine claims based upon losses suffered during World War I. Furthermore, even had the Commission been charged

with the duty of receiving and determining such claims, the language of Section 303(1) of the Act restricts it to those owned by United States nationals. As to such claims, the customary rule of international law as to the national character of the 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 case of MR. McINTYRE'S claim, 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. Therefore, on this ground, as well as that above stated, the claim of ARCHIBALD BLUE McINTYRE may not be considered compensable under Section 303(1). There is nothing in the Decision of the Rumanian Commission to indicate that it fixed any liability upon the Government of Rumania, or that it did more than to determine the amount of the war damage loss. However, if it be viewed as an actual award, constituting an obligation of Rumania to the claimant, and considered under Section 303(3) of the Act, the instant claim is not benefited. Without further reference to the nationality aspect, it is clear that it is an obligation expressed in lei, not in currency of the United States as required by Section 303(3) for an award, and thus is not compensable under that subsection.

The only remaining portion of this claim to be considered is that wherein MRS. McINTYRE seeks an award for certain bank stocks and bonds owned by her, which were deposited with the Bank of the People's Republic of Rumania "for conservation" on January 10, 1950. It has not been shown that this deposit or any other action constituted a nationalization, compulsory liquidation or other taking of the securities within the purview of Section 303(2) of the Act.

These were securities of the Banca Romaneasca (Rumanian Bank). This institution was not among those which were exempted from dissolution

and liquidation under the 1948 laws * vesting all Rumanian banking in the State. If this constituted a loss to the claimant - a fact not shown - it occurred prior to her resumption of United States nationality on March 21, 1949. Consequently she is ineligible for an award for such losses under Section 303(2), which limits compensability to claims which had United States nationality when they arose, and continuously thereafter.

For the reasons above set out, this claim is denied.

Dated at Washington, D. C.

OCT 10 1958

FOR THE COMMISSION:

 

Donald G. Benn, Director
Balkan Claims Division

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*Decree No. 197, Rumanian Official Gazette No. 186, August 13, 1948;
Law No. 19, Rumanian Official Gazette No. 133 Bis, June 11, 1948.