

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

JENNIE NEAG
MARTHA NEAG
MARIE NEAG

**Under the International Claims Settlement
Act of 1949, as amended**

Claim No. RUM-2-114

Decision No. RUM-2- 336

PROPOSED DECISION

This claim, for \$596,000.00, under Section 303(4), Title III, of the International Claims Settlement Act of 1949, as amended, against the Government of Rumania, is based upon the asserted ownership and loss of 40 hectares of agricultural land with a house, barns, and other buildings at "Schullerwald" in Bistrita, Rumania, with personal property consisting of farm implements and equipment, carriages, their equipment, clothing, household furniture and goods, art objects and "miscellaneous" personalty at the same location, also three savings accounts with a financial institution in Rumania. The claimant, JENNIE NEAG, has been a national of the United States since June 29, 1922, having acquired United States nationality by virtue of the naturalization of her husband, John Neag, on that date.

MARTHA NEAG and MARIE NEAG, nationals of the United States since the naturalization of John Neag, on June 29, 1922, and since birth on September 22, 1923, respectively, petitioned the Commission for permission to join as party claimants; and upon due consideration, it is

ORDERED that their petitions be and the same are hereby granted.

JENNIE NEAG also filed a claim under Section 303(2), Title III, of the International Claims Settlement Act of 1949, as amended (Claim No. RUM-30,875), based upon three bank accounts also involved in this claim, which was denied. That file has been associated with this claim for reference.

Under Section 303, Title III, of the International Claims Settlement Act of 1949 (69 Stat. 570 (1955), 22 U.S.C. §§1641-1641q (1964)), as further amended by Section 10 of Public Law 90-421, approved on July 24, 1968 (82 Stat. 420 (1968)), the Commission is given jurisdiction over certain claims of nationals of the United States included within the terms of the Rumanian Claims Agreement of 1960, which provides, among other things, for

(b) Claims for the nationalization, compulsory liquidation, or other taking, prior to the date of this Agreement of property, rights and interests of nationals of the United States of America in Rumania; (Article I(1)(b) of Agreement Between the United States of America and the Rumanian People's Republic Relating to Financial Questions Between the Two Countries, March 30, 1960, 11 UST 317; TIAS 4451 (1960)).

I. Real property

The contract of sale, submitted by JENNIE NEAG, and information furnished by the Government of Rumania, show, and the Commission finds that in 1932 JENNIE NEAG and her late husband, John Neag, purchased the real property known as "Schullerwald" in Bistrita, Rumania, recorded in liber No. 1904 of Bistrita as land parcel Nos. 7198/2, 7199, 7200, 7201/4 and 7203/4, in equal shares.

The late John Neag died intestate on November 7, 1946, and under the applicable law of intestate succession of Rumania, the law of the situs, his surviving widow, JENNIE NEAG inherited a 1/4 in the decedent's 1/2 interest and his daughters, MARTHA NEAG and MARIE NEAG, inherited in equal shares the remainder of the decedent's estate. Therefore, after the death of John Neag, the claimants owned interest in the subject real property as follows:

JENNIE NEAG 1/2 plus 1/4 of 8/16 or a total of 10/16
MARTHA NEAG 1/2 of 6/16 or 3/16
MARIE NEAG 1/2 of 6/16 or 3/16

On the basis of the information furnished by the Government of Rumania, mentioned above, the Commission finds that the property known as "Schullerwald" was taken by the Government of Rumania on September 30, 1959, with the exception of the dwelling house thereon and 0.40 hectar of land which were and remained in the possession and use of Gheorghe Zavoian, the brother of JENNIE NEAG.

It is alleged by the claimants that the property in question had the total value of \$500,000.00. In support of such allegation the claimants submitted the original contract of sale, a surveyor's sketch of the land parcels, blueprints of the improvements, and 14 photographs.

The Commission finds, on the basis of the evidence mentioned, that the real property taken by the Government of Rumania on September 30, 1959, consisted of a total of 18 joch 234 fathoms less 0.40 hectare or a net area of 17 joch 720 square fathoms of land, improved by a restaurant, dance hall, barn, and other farmbuildings. The Commission further finds that portions of the land were cultivated, others improved as an orchard, and some were wooded areas.

The Commission has conducted an independent investigation into methods of evaluating agricultural property and its improvements in Rumania. The Commission has considered the average values published in 1956 by the Präsident des Bundesausgleichsamtes, Bad Homburg (Verzeichnis der Gemeinde-Hektärsätze mit alphabetischem Kreisverzeichnis der Vertreibungsgebiete, 1956 (Supp.)). These values were used in administering the German Equalization of Burdens Laws. The Commission has made an upward adjustment in such values according to a formula evolved by the Kommission für Nationalisierungsentschädigungen, the Swiss national claims commission, for use in determining claims of Swiss nationals.

On the basis of all evidence of record, including evidence of value of comparable property in Rumania, the Commission finds that the real property known as "Schullerwald", with the exception of the dwelling house and 0.40 hectare of land which was not taken by the Government of Rumania, had a total value of \$26,800.00 on September 30, 1959, the date of loss; and the Commission concludes that the claimants are entitled, under Section 303(4) of the Act, *supra*, to compensation for their losses in amounts as follows:

<u>Claimant:</u>	<u>Interest owned:</u>	<u>Compensation:</u>
JENNIE NEAG	10/16	\$16,750.00
MARTHA NEAG	3/16	5,025.00
MARIE NEAG	3/16	5,025.00

The portion of the claim which is based upon the asserted loss of a dwelling house and 0,40 hectare of land, a part of "Schullerwald", is denied because it was not nationalized or otherwise taken by the Government of Rumania between August 9, 1955, and March 30, 1960, the period covered by the Act, *supra*.

II. Personal property

A further portion of the claim is based upon the asserted ownership and loss of personal property consisting of farm implements and equipment, carriages, their equipment, clothing, household furniture and goods, art objects and "miscellaneous" personalty at "Schullerwald" in Bistrita.

Information furnished by JENNIE NEAG shows that she and her co-claimants left Rumania in December 1938.

No evidence was submitted by JENNIE NEAG with her Statement of Claim in support of that portion of the claim which is based upon loss of personal property.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (1970).

Therefore, by Commission letter of July 31, 1970, JENNIE NEAG was advised of the provisions of Section 303(4) of the Act, supra, as to the type of evidence proper for submission to establish this portion of the claim under the Act and the sources from which it may be obtained.

By letter of August 27, 1970, JENNIE NEAG, submitted, among other things, itemized lists of the personalty involved in this claim. However, no evidence was submitted to establish that such personalty, if owned by the claimants, was nationalized or otherwise taken by the Government of Rumania.

In view of the foregoing, the Commission finds that the claimants failed to establish that they owned personal property in Rumania which was nationalized or otherwise taken by the Government of that country between August 9, 1955, and March 30, 1960, as required for compensation. Therefore, the portion of the claim which is based upon the asserted ownership and loss of personal property, not including bank accounts, must be and it is hereby denied.

III. Bank accounts

The remaining portion of this claim is based upon three savings accounts with the Banca Centrala in Cluj, Rumania, having balances in the amounts of 45 lei, 3,084 lei, and 855,618 lei, respectively, or a total of 858,747 lei, in 1938.

The claimants do not allege a confiscation, nationalization, compulsory liquidation, or other taking by the Rumanian Government of the bank accounts (as distinguished from the bank, which was not the property of the claimants), and it is not likely that any such action occurred. Rumanian banks were nationalized under Decree No. 119 of June 11, 1948; but this action specifically included an assumption of their obligations as well as their

assets. With few exceptions, the banks were dissolved by Decree No. 197 of August 13, 1948, and liquidators were appointed to sell the assets and pay the obligations, so that the rights of depositors were not curtailed or abolished by the decree. To the Commission's knowledge, there has been no general legislation by which deposits were confiscated, appropriated, or otherwise taken by the Rumanian Government. Thus, presumably, there still exists in Rumania in some institution of credit, an account or accounts in favor of the claimants, however small in value, and however restricted may be the use and enjoyment thereof.

The nationalization of the banks was preceded in Rumania by a drastic devaluation of the currency of the country, culminating in the August 15, 1947 Law on Monetary Reform which introduced stabilized lei for which old lei could be exchanged, within prescribed limits, at the ratio of 20,000 to 1. What little value remained in pre-war deposits of the size here involved, disappeared in the process of further devaluations in 1952 and 1954. Although the currency devaluation caused economic loss to a great many individuals holding such currency, in or out of banks, it was not a nationalization, compulsory liquidation, or other taking of property by the Rumanian Government. Rather, it was the result of tremendous damage inflicted upon the Rumanian economy, principally by the war and post-war conditions, and not of any action of the Rumanian Government giving rise to a compensable claim under the Act. Likewise, a prohibition against transfer of funds outside of a country is an exercise of sovereign authority which, though causing hardship to nonresidents having currency on deposit within the country, may not be deemed a "taking" of their property within the meaning of Section 303(4) of the Act. It is noted that the identical position was taken by the Commission in administering the first Rumanian claims program under Section 303(2) of the Act, supra. (See the Claim of Ilie Muresan, Claim No. RUM-30,211; 10 FCSC Semiann. Rep. 111 (Jan.-June 1959).)

The Commission finds that in case the bank accounts involved in this claim were nationalized or otherwise taken by the Government of Rumania prior to August 9, 1955, the claim is not compensable under Section 303(4) of the Act, supra, because such action would have occurred prior to the first date of the period covered by the Act.

The Commission further finds that in the course of the monetary reform of August 15, 1947, when 20,000 "old" lei were exchanged for 1 "new" lei per U.S. dollar, the claimants' accounts of 858,747 "old" lei became the equivalent of approximately 29 U.S. cents, an amount inconsequential for all practical purposes. The subsequent devaluation in 1952 and 1954 rendered these account worthless.

On the basis of the foregoing, the Commission concludes that claimants' loss, sustained in connection with the bank accounts in question, was not caused by the nationalization or other taking of property between August 9, 1955 and March 30, 1960 as required for compensation under the Act.

Accordingly, the portion of the claim which is based upon three bank accounts must be and it is hereby denied.

The Commission has held that in granting awards on claims under Section 303(4) of the Act for the nationalization or other taking of property interest shall be allowed at the rate of 6% per annum from the date of loss to March 30, 1960, the effective date of the Rumanian Claims Agreement.

(See Claim of John Hedio Proach, Claim No. PO-3197; FCSC Dec. & Ann. 549 (1968).

A W A R D S


An award is made to JENNIE NEAG in the principal amount of Sixteen Thousand Seven Hundred Fifty Dollars (\$16,750.00), with interest thereon at the rate of 6% per annum from September 30, 1959, the date when the claim arose, to March 30, 1960, the date when the Rumanian Claims Agreement entered into force, in the sum of Five Hundred Two Dollars and Fifty Cents (\$502.50);

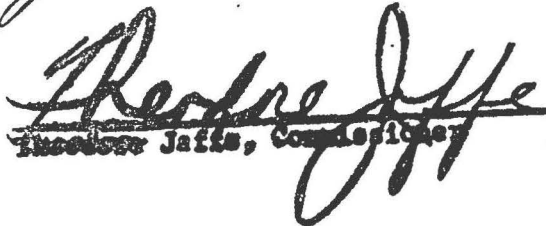
an award is hereby made to MARTHA NEAG in the principal amount of Five Thousand Twenty-Five Dollars (\$5,025.00), with interest thereon at the rate of 6% per annum from September 30, 1950, the date when the claim arose, to March 30, 1960, the date wh4n the Rumanian Claims Agreement entered into force, in the sum of One Hundred Fifty Dollars and Seventy-Five Cents (\$150.75.); and

an award is hereby made to MARIE NEAG in the principal amount of Five Thousand Twenty-Five Dollars (\$5,025.00), with interest thereon at the rate of 6% per annum from September 30, 1959, the date when the claim arose, to March 30, 1960, the date when the Rumanian Claims Agreement entered into force, in the sum of One Hundred Fifty Dollars and Seventy-Five Cents (\$150.75).

Dated at Washington, D. C.
and entered as the Proposed
Decision of the Commission

AUG 18 1970



Lyle S. Carlock, Chairman


Theodore Jaffe, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. §531.5(e) and 45 C.F.R. 531.5(a)(2)).

This is a true and correct copy of the decision of the commission which was entered as the final decision on SEP 20 1971

RUM-2-114


Clerk of the Commission