

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES

WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

EUGENIA NICOLAOU

Under the International Claims Settlement
Act of 1949, as amended

Claim No. RUM-2-241

Decision No. RUM-2-

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PROPOSED DECISION

This claim, for \$80,000.00 , against the Government of Rumania, under Section 303(4), Title III, of the International Claims Settlement Act of 1949, as amended, is based upon the asserted loss of certain real and personal property in Constanta, Rumania. The claimant, EUGENIA NICOLAOU, states that she has been a national of the United States since her naturalization on April 5, 1962.

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 (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)).

The jurisdiction of the Commission is set forth in Section 303(4) of the Act, supra, which authorizes 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 arising out of the failure of that government to pay effective compensation for the nationalization, compulsory liquidation, or other taking of property of nationals of the United States between August 9, 1955 and March 30, 1960, the effective date of the Rumanian Claims Agreement.

It is clear, therefore, that this new section of the Act does not confer jurisdiction upon the Commission to consider all claims which were settled and discharged under the Rumanian Claims Agreement of 1960; but rather, provides for a limited class only, namely, those which arose between August 9, 1955 and March 30, 1960 as a result of the nationalization, compulsory liquidation, or other taking of property.

It is important to note that other classes of claims settled and discharged by the Agreement which arose prior to August 9, 1955 were provided for pursuant to Subsections (1), (2) and (3) of Section 303 of the Act, supra. That program was completed on August 9, 1959 pursuant to an express statutory mandate.

Additionally, under well established principles of international law, in order for a claim to be compensable, the property upon which the claim is based must have been owned by a national of the United States on the date that it was taken and the claim which arose from such taking must have been continuously owned thereafter by a United States national until its filing with the Commission.

This is also clear from Article I(2) of the Rumanian Claims Agreement of 1960 which provides that the term "nationals of the United States" as used in subparagraph (b), which relates to claims for the nationalization, compulsory liquidation, or other taking of property, refers to nationals who possessed United States nationality "on the effective date of nationalization, compulsory liquidation or other taking".

The claimant, the asserted owner of the subject property, states that the property involved in this claim was nationalized by the Government of Rumania in "1944 & 1950".

If this is the case, the Commission has no jurisdiction to grant compensation in this claim because it did not arise between August 9, 1955, and March 30, 1960, the period covered by Section 303(4) of the Act, supra.


Assuming, ad arguendo, that the subject property was not nationalized in "1944 & 1950" by the Government of Rumania as it is stated by the claimant, but sometime between August 9, 1955, and March 30, 1960, this claim still would not be valid under the Act because the subject property could not have been owned by a national of the United States on the date of taking, as required for compensation, for the reason that the claimant, the owner of the subject property, did not acquire United States nationality until April 5, 1962.

It is noted that claims for losses caused by military operation during World War II are clearly outside of the purview of Section 303(4) of the Act, supra.


In view of the foregoing, the claim must be and it is hereby denied.

The Commission finds it unnecessary to make determinations with respect to other elements of this claim.


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


Lyle S. Garlock, Chairman

OCT 7 1970 REGISTRATION


Theodore Jaffe, Commissioner

This is a true and correct copy of the Proposed Decision of the Commission which was entered as the Proposed decision on 16 NOV 1970


Clerk of the Commission

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 (g), as amended.)