

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

IN THE MATTER OF THE CLAIM OF

HELMUTH B. ELSSNER
LISBETH ELSSNER
MARGIT KRETSCHMAN
EGON ELSSNER

Claim No. G-0039

Decision No. G-1582

Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

This claim in an unstated amount against the Government of the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended by Public Law 94-542 (90 Stat. 2509), is based upon the loss of a mortgage, six bank accounts at the Berliner Stadtkontor, and one bank account at the Kreissparkasse Zittau.

The record indicates that claimants, HELMUTH B. ELSSNER and his wife, LISBETH ELSSNER, acquired United States citizenship by naturalization on May 29, 1931 and January 11, 1946, respectively. The record also indicates that their children and co-claimants herein, MARGIT KRETSCHMAN and EGON ELSSNER, were born United States citizens on December 12, 1927, and November 29, 1931, respectively.

Under section 602, Title VI of the Act, the Commission is given jurisdiction as follows:

"The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims by nationals of the United States against the German Democratic Republic for losses arising as a result of the nationalization, expropriation, or other taking of (or special measures directed against) property, including any rights or interests therein, owned wholly or partially, directly or indirectly, at the time by nationals of the United States whether such losses occurred in the German Democratic Republic or in East Berlin. . ."

Based upon the entire record, the Commission finds that claimant, HELMUTH B. ELSSNER, inherited improved real property located in Waldorf upon his father's death in 1949. The record includes a letter from Eberhard and Elfriede Fritsche, dated March 13, 1979, indicating that they had leased the property in 1957 and bought it around the middle of April 1961 in exchange for a mortgage in the amount of 9,825 ostmarks registered in the name of HELMUTH B. ELSSNER. Eberhard Fritsche states that the mortgage was paid off to the Berliner Stadtkontor by April 1969. The record includes a letter to the claimant from the Berliner Stadtkontor, dated December 12, 1969, acknowledging that a mortgage in the amount of 9,825 ostmarks was under its administration as foreign property.

Based upon all the evidence, the Commission finds that this mortgage came under the purview of the "Decree on the Administration and Protection of Foreign Property in the German Democratic Republic," dated September 6, 1951. The Commission has held that implementation of the provisions of that decree constitutes a taking as defined by section 602 of the Act. Since the subject mortgage was created subsequent to the implementation of the above law, the Commission holds that it was taken at the same time it was established. Although the record does not indicate the exact date the mortgage was created, Eberhard Fritsche has stated that he purchased the real property around the middle of April 1961. The Commission concludes, therefore, that the mortgage was established on or about April 15, 1961, and that it was taken on the same date by the German Democratic Republic.

Based upon currency charts and the Commission's knowledge of foreign exchange practices in the German Democratic Republic, the Commission determines that four ostmarks equalled one dollar in April 1961. Claimant, HELMUTH B. ELSSNER, therefore, is entitled to an award of \$2,456.25 for the loss of the subject mortgage.

Statements of account from the Deutsche Notenbank in Berlin, dated September 21, 1953, indicate that all of the claimants had pre-1945 bank accounts and that application was made for their revaluation from reichsmarks into ostmarks pursuant to the East German currency reform of 1948. These accounts included two in the name of claimant, HELMUTH B. ELSSNER, in the amounts of 4,795.35 reichsmarks and 996 reichsmarks, respectively; one in the name of claimant, LISBETH ELSSNER, in the amount of 148 reichsmarks; one in the name of claimant, MARGIT KRETSCHMAN, in the amount of 7,520 reichsmarks; and one in the name of claimant, EGON ELSSNER, in the amount of 5,833 reichsmarks.

A subsequent letter from the Berliner Stadtkontor, dated September 8, 1955, indicates that all of the accounts had been transferred from the Deutsche Notenbank and were being administered by the Berliner Stadtkontor pursuant to the "Decree on the Administration and Protection of Foreign Property in the German Democratic Republic of September 6, 1951." The Commission has held that implementation of the provisions of that decree constitutes a taking as defined by section 602 of the Act, which, absent more specific evidence, will be considered to have occurred on August 11, 1952, the date of the first implementing regulation. (Claim of OLGA LOEFFLER, Claim No. G-0056, Decision No. G-0221).

Pursuant to the currency reform of 1948, the reichsmark accounts would have been converted into ostmarks at a rate of ten reichsmarks to one ostmark. Thus, the two accounts of claimant, HELMUTH B. ELSSNER, would have been revalued at 479.53 ostmarks and 99.60 ostmarks, respectively, a total of 579.13 ostmarks; the account of claimant, LISBETH ELSSNER, would have been revalued at 14.10 ostmarks; the account of claimant, MARGIT KRETSCHMAN, would have been revalued at 752 ostmarks; and the account of claimant, EGON ELSSNER, would have been revalued at 583.30 ostmarks. The Commission has held that this conversion of reichsmarks to ostmarks at a ten to one ratio does not give rise to a claim under international law and that 4.2 ostmarks equalled one dollar in 1952, when the foregoing accounts were taken by the German Democratic Republic. (Claim of OLGA LOEFFLER, Claim No. G-0056, Decision No. G-0221).

Therefore, claimant, HELMUTH B. ELSSNER, is entitled to a total award of \$137.89 for the loss of his two bank accounts, while claimants, LISBETH ELSSNER, MARGIT KRETSCHMAN, and EGON ELSSNER, are entitled to awards of \$3.36, \$179.05, and \$138.88, respectively, for the loss of their bank accounts.

The record also indicates that claimant, HELMUTH B. ELSSNER, inherited a "Sondersparkonto" (special savings account) from his father, Hermann Elssner, a citizen of the German Democratic Republic who died in November 1949. A letter from the Kreissparkasse (District Savings Bank of) Zittau, dated December 2, 1958, indicates that the account, with a principal sum of 202 ostmarks and 59.86 ostmarks in interest had been transferred to the Berliner Stadtkontor on October 30, 1958. A letter from the Berliner Stadtkontor on December 6, 1958, advised the claimant that a new account had been established, but that it came under the purview of the "Decree on the Discharge of Share Rights of Citizens of the German Democratic Republic in Old Asset Liquidation Credits," of September 22, 1958. Claimant was advised that, pursuant to this decree, the claims of persons whose residence was outside the German Democratic Republic were in abeyance as of October 8, 1958, the day the decree became effective. Claimant has been unable to make any use of the funds in this account. The Commission finds, therefore, that the account has been taken, as defined by section 602 of the Act, and that the date of taking was October 8, 1958.

Based on currency charts and the Commission's knowledge of foreign exchange practices in the German Democratic Republic, the Commission determines that 4.2 ostmarks equalled one dollar in 1958. For the loss of this account totalling 261.86 ostmarks, therefore, the Commission finds that claimant, HELMUTH B. ELSSNER, is entitled to an award of \$62.35.

The record indicates that claimant, HELMUTH B. ELSSNER, also inherited a "Sondersparkonto" (special savings account) from his mother, Selma Elssner, a citizen of the German Democratic Republic who died on December 10, 1959. Correspondence from the Kreissparkasse Zittau, dated March 16, 1960, indicates that the account was still on deposit at that bank and had a balance of 564 ostmarks. The letter also advised that this account came under the purview of the "Decree on the Discharge of Share Rights of Citizens of the German Democratic Republic in Old Asset Liquidation Credits," of September 22, 1958, and that HELMUTH B. ELSSNER's right to claim therefor was in abeyance. The Commission holds that this action constitutes a taking within the meaning of section 602 of the Act, and that the taking occurred on December 10, 1959, the date the claimant's inheritance right arose.

Based upon currency charts and the Commission's knowledge of foreign exchange practices in the German Democratic Republic, the Commission determines that 4.2 ostmarks equalled one dollar in 1959. For the loss of this account with a balance 564 ostmarks, therefore, claimant, HELMUTH B. ELSSNER, is entitled to an award of \$134.29.

The Commission had concluded that in granting awards on claims under section 602 of Title VI of the Act, for the nationalization or other taking of property or interests therein, interest shall be allowed at the rate of 6% per annum from the date of loss to the date of settlement. (Claim of GEORGE L. ROSENBLATT, Claim No. G-0030, Decision No. G-0100 (1978)).

A W A R D S

Claimant, HELMUTH B. ELSSNER, is therefore entitled to an award in the total amount of Two Thousand Seven Hundred Ninety Dollars and Seventy-Eight Cents (\$2,790.78), plus interest at the rate of 6% simple interest per annum on \$2,456.25 from April 15, 1961, on \$137.89 from August 11, 1952, on \$62.35 from October 8, 1958, and on \$134.29 from December 10, 1959, until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic, and;

Claimant, LISBETH ELSSNER, is therefore entitled to an award in the amount of Three Dollars and Thirty-Six Cents (\$3.36), plus interest at the rate of 6% simple interest per annum from August 11, 1952 until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic, and;

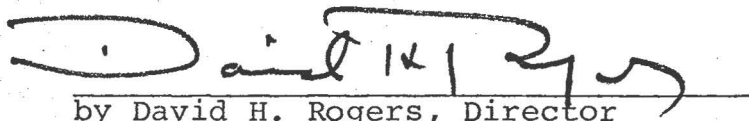
Claimant, MARGIT KRETSCHMAN, is therefore entitled to an award in the amount of One Hundred Seventy-Nine Dollars and Five Cents (\$179.05), plus interest at the rate of 6% simple interest per annum from August 11, 1952, until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic, and;

Claimant, EGON ELSSNER, is therefore entitled to an award in the amount of One Hundred Thirty-Eight Dollars and Eighty-Eight Cents (\$138.88), plus interest at the rate of 6% simple interest per annum from August 11, 1952 until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.

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

DEC 5 1979

For Presentation to the Commission



by David H. Rogers, Director
German Democratic Republic Claims
Division

This is a true and correct copy of the decision of the Commission which was entered as the final decision on ~~SEP 10 1980~~


Executive Director

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, a Final Decision based upon the Proposed Decision will be issued upon approval by the Commission any time after the expiration of the 30 day period following such service or receipt of notice. (FCSC Reg., 45 C.F.R. 531.5 (e) and (g), as amended.)