

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

IN THE MATTER OF THE CLAIM OF

CHRISTA L. FICHTNER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-0163

Decision No. G-1959

Hearing on the Record held on **MAY 06 1981**

FINAL DECISION

This claim in the amount of 15,000 Deutsche marks and 13,395.56 reichsmarks 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 land in Mannstedt and bank accounts in Grossbrenbach, Buttstaedt and Erfurt.

The record indicates that claimant became a United States citizen on April 14, 1955.

In its Proposed Decision dated February 27, 1980, the Commission denied this claim for the reasons that: (1) the record indicated that claimant's bank account in Erfurt had not been nationalized or otherwise taken by the German Democratic Republic; (2) there was no evidence to establish that claimant's other accounts were nationalized or otherwise taken when they were owned by a United States citizen; and, (3) the evidence of record indicated that claimant had never acquired an ownership interest in the real property in Mannstedt.

By letter dated March 4, 1980, claimant objected to the Proposed Decision stating that she should have been allowed by the German Democratic Republic to lawfully inherit the land in Mannstedt and that two of the bank accounts (in Grossbrenbach and Buttstaedt) had some 13,395,56 reichsmarks in them at the end of World War II, but claimant has had no further information as to what has happened to these accounts. Claimant has submitted new evidence, consisting of communications from the German Democratic Republic dated February 22, 1980, and March 5, 1980, which indicates that the real property on which rent was being paid into her blocked bank account in Erfurt was no longer being managed for her by her representative in the German Democratic Republic and that the "utilization contract" for her land, which she owned in her own right, was being unilaterally revised.

The Commission has considered claimant's objections and the new evidence submitted and finds that:

1. With respect to the two bank accounts in Grossbrenbach and Buttstaedt in which claimant had some 13,395.56 reichsmarks at the end of World War II, these accounts would have been revalued at 10 reichsmarks equal to 1 ostmark during the currency reform in the German Democratic Republic in 1948 and then would have been subject to cancellation by the German Democratic Republic in 1952, when claimant, the owner thereof, was not a United States citizen as required for compensation under the Act.

2. With respect to the seven and one half acres of farmland owned by claimant's father at the time of his death, the Commission again finds that the evidence of record does not establish that claimant ever acquired an ownership interest in the property or that the property was nationalized or otherwise taken by the German Democratic Republic. (The Commission notes in this regard that all sovereign States have the inherent power to regulate the transfer of property interests, including transfer by inheritance.

If claimant herein was precluded from inheriting property under valid laws of the German Democratic Republic the Commission can not equate this with a taking of the property by the State. In the first place no ownership was ever acquired by the claimant and, in the second place, there is no evidence to establish that the property in question ever became State owned rather than passing to another heir).

3. In the case of claimant's own property, for which rent was apparently being paid under a "utilization contract" into a blocked bank account in Erfurt, the Commission finds, that even if it were to hold that the actions of the German Democratic Republic in unilaterally revising the contract for rental of the property or the actions of claimant's representative in declining to represent her interests in the German Democratic Republic could be considered as tantamount to a taking of the subject property, such taking would have occurred after the October 18, 1976, the date of enactment of Public Law 94-542. The Commission has held in the Claim of IRMGARD BERTRUDE BULLOCK, Claim No. G2298, Decision and Order No. G0734, that it has no authority to consider takings in the German Democratic Republic which occurred on or after October 18, 1976, for the reason that such losses could not reasonably have been contemplated by the Congress at the time of enactment of the legislation giving the Commission authority to adjudicate claims for losses in the German Democratic Republic.

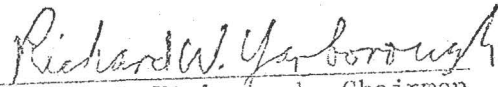
Full consideration having been given to the entire record, including the claimant's objections and the new evidence submitted, the Commission finds that the evidence of record does not warrant any change in the Proposed Decision.

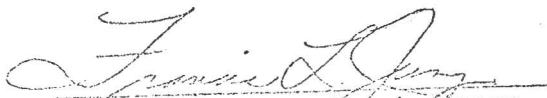
Accordingly, it is


ORDERED that the Proposed Decision denying this claim be and it is hereby affirmed and that the foregoing be entered as the Commission's final determination on this matter.

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

MAY 6 1981


Richard W. Yarborough, Chairman


Francis L. Jung, Commissioner


Ralph W. Emerson, Commissioner

This is a true and correct copy of the decision
the Commission which was entered as the final
decision on MAY 6 1981


Executive Director

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PROPOSED DECISION

This claim in the amount of 15,000 Deutsche marks and 13,395.56 reichsmarks 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 land in Mannstedt and bank accounts in Grossbrenbach, Buttstaedt and Erfurt.

The record indicates that claimant became a United States citizen on April 14, 1955.

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. . ."

Section 603 of Title VI of the Act limits the Commission's jurisdiction as follows:

"A claim shall not be favorably considered under section 602 of this title unless the property right on which it is based was owned, wholly or partially, directly or indirectly, by a national of the United States on the date of loss, and if favorably considered, the claim shall be considered only if it has been held by one or more nationals of the United States continuously from the date that the loss occurred until the date of filing with the Commission."

At the time of filing, claimant submitted evidence which shows that she owns interests in real property recorded in the land record for Mannstedt and that she had two bank accounts in Grossbrenbach and Buttstaedt totalling 13,395.56 reichsmarks in 1943. No evidence was submitted to establish that the subject properties or bank accounts had been taken by the German Democratic Republic on or after April 14, 1955, the date claimant assertedly acquired United States nationality. Claimant stated, however, that she was able to withdraw money during visits to the German Democratic Republic in 1968 and 1975 from an account in the Erfurt branch of the Staatsbank. Apparently this account is for rental of farmland owned by the claimant.

With respect to the bank account in the Erfurt branch, the Commission notes that currency regulations in the German Democratic Republic, as in many other countries, place limitations upon the free use of bank accounts, allowing withdrawal within the German Democratic Republic in certain amounts for certain specified purposes, but prohibiting the conversion of the funds to foreign currency. An account subject to such regulation is termed a "blocked account".

The Commission has held that it is a well established principle of international law that such blocking of a bank account is an exercise of sovereign authority which does not give rise to a compensable claim (Claim of MARTIN BENDRICK, Claim No. G-3285, Decision No. G-0220).

While the fact of the blocking of an account may cause non-residents of the German Democratic Republic some hardship, the Commission concludes that such action does not constitute a nationalization, expropriation or other taking as required for compensation under section 602 of the Act.

Accordingly, that portion of this claim based upon a blocked bank account in the German Democratic Republic must be and it is hereby denied.

With respect to the portion of this claim based upon land in Mannstedt, and the two bank accounts in Grossbrenbach and Buttstaedt, the Commission finds that the record is devoid of evidence to establish that the real property or bank accounts were taken by the German Democratic Republic. Accordingly, this portion of the claim must be and it is hereby denied.

A portion of this claim is based upon the loss of seven and one-half hectares of land assertedly acquired by the claimant by inheritance upon the death of her father. However, the record in this claim contains a determination by the Council of the District of Soemmerda dated June 2, 1973 overruling the decree of distribution by the office of the State Notary. Based upon this ruling, the Commission finds that claimant's right to inherit the subject seven and one-half acres of land from her father was rejected. According, claimant did not acquire ownership rights in the subject property and this portion of the claim must be and it is hereby denied.

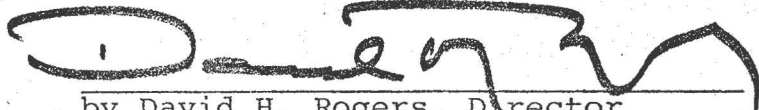
For the above cited reasons, the claim must be and hereby is denied.

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.

For Presentation to the Commission

FEB 27 1980



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

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.)

At any time after Final Decision has been issued on a claim, or a Proposed Decision has become the Final Decision on a claim, but not later than 60 days before the completion date of the Commission's affairs in connection with this program, a petition to reopen on the ground of newly discovered evidence may be filed. (FCSC Reg., 45 C.F.R. 531.5 (1), as amended.)