

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

IN THE MATTER OF THE CLAIM OF

IRMGARD GERTRUDE BULLOCK

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. G-2298

Decision No. G-0734

ORDER

By Proposed Decision dated May 2, 1979, the Commission denied the claim of IRMGARD GERTRUDE BULLOCK on the ground that claimant had failed to meet the burden of proving a nationalization, confiscation or other taking of property in the German Democratic Republic, as required for compensation under section 602 of the Act. No objections having been received, the decision was entered as the Commission's Final Decision on June 6, 1979.

The Regulations of the Commission provide:

"At any time after a Final Decision has been issued on a claim, or a Proposed Decision has become a 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. No such petition shall be entertained unless it appears therein that the newly discovered evidence came to the knowledge of the party filing the petition subsequent to the date of issuance of the Final Decision or the date on which the Proposed Decision became the Final Decision; that it was not for want of due diligence that such evidence did not come sooner to his knowledge; and that the evidence is material, and not merely cumulative, and the reconsideration of the matter on the basis of such evidence would produce a different decision. (FCSC Reg., 34 C.F.R. 531.5 (1), as amended).

By letter dated July 26, 1980 claimant requested that her claim be reopened on the basis of evidence which first became available after a Final Decision was entered on her claim. Claimant submitted a copy of a decision by an agency of Federal Republic of Germany which found that the property which was the subject of her claim was taken by the German Democratic Republic on February 1, 1979. That decision is supported by the evidence of record before the Commission consisting of documents and statements submitted by claimant. Based on the evidence, the only conclusion which could be reached by the Commission is that the property in question was taken by the German Democratic Republic on February 1, 1979. The Commission, however, may grant claimant's petition to reopen only if such reconsideration would produce a different result.

The issue before the Commission on claimant's petition to reopen is whether Public 94-542 limits the Commission's authority by restricting its consideration to only those claims which arose within a defined period of time. Stated more specifically, the issue is whether the Commission has the authority to consider claims which arose after October 18, 1976, the date on which Public Law 94-542 was approved.

The Commission notes that Public Law 94-542 does not expressly limit the Commission's authority to the consideration of claims arising between specific dates. The Commission, however, has examined the language and purpose of Public Law 94-542 and the practice of the Commission in other claims programs in order to determine whether such a limitation exists. The Commission finds particularly persuasive the reasoning in Claim of ZUZANA FILKO, Claim No. CZ-4583, Decision No. CZ-55, under Title V of the International Claims Settlement Act of 1949. In that claim, the Commission held that only those claims could be favorably considered which arose prior to the date on which Title V was enacted. The Commission based its holding on an examination of statutory language and legislative history.

The Commission now holds that it may not favorably consider any claim against the German Democratic Republic which arose after October 18, 1976, the date on which Public Law 94-542 was approved.


The evidence indicates that the Claim of IRMGARD GERTRUD BULLOCK arose on February 1, 1979. A consideration of the claim by the Commission under claimant's petition to reopen would perforce result in a denial of the claim. Because the reconsideration of the claim on the basis of the newly submitted evidence would not lead to a different result, claimant's petition to reopen must be denied.

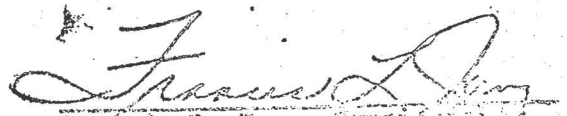
Accordingly, it is

ORDERED that the petition to reopen of claimant, IRMGARD G. BULLOCK must be and hereby is denied.

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

**OCT 29 1980**

  
Richard W. Yarbrough, Chairman

  
Francis L. Jung, Commissioner

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PROPOSED DECISION

This claim in the amount of \$60,000.00 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 real property in Finsterwalde.

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. . ."

By letter dated October 31, 1978 claimant was requested to submit evidence that the real property had, in fact, been the subject of a naturalization, confiscation or other taking in the German Democratic Republic. From the subsequent exchange of correspondence with the claimant, it appears that such evidence is unavailable.

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) (1977)).


The Commission finds that claimant, IRMGARD GERTRUDE BULLOCK, has failed to meet the burden of proving a nationalization, confiscation or other taking of property in the German Democratic Republic, as required for compensation under section 602 of the Act.


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.

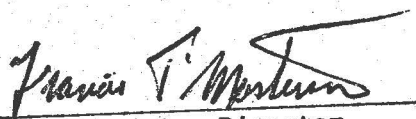
Date at Washington, D.C.  
and entered as the Proposed  
Decision of the Commission.

MAY 2 1979

  
Richard W. Yarborough, Chairman

  
Wilfred J. Smith, Commissioner

This is a true and correct copy of the decision  
of the Commission which was entered as the final  
decision on JUN 6 1979

  
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, 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).

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).