

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

IN THE MATTER OF THE CLAIM OF

RUDOLF FALK

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-3861

Decision No. G-2257

PROPOSED DECISION

This claim in the amount of 110,000 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 an apartment house and land located in Chemnitz (presently Karl-Marx-Stadt).

The record indicates that claimant became a United States citizen on February 26, 1934.

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. Such claims must be submitted to the Commission within the period specified by the Commission by notice published in the Federal Register (which period shall not be more than twelve months after such publication) within sixty days after the enactment of this title or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later." (emphasis added).

The period for the filing of claims under the statute commenced on May 16, 1977 and closed twelve months later on May 16, 1978. Thus, the filing period extended for the maximum time--twelve months--allowed under Public Law 94-542. The subject claim,

however, was dated December 9, 1978 and received at the Commission on December 18, 1978. Since the one year filing period provided under the statute had already expired, this claim was not timely filed. Under Public Law 94-542, therefore, the Commission is not authorized to grant an award.

Even if this claim had been timely filed, however, the evidence would be insufficient to find it compensable. The record establishes that claimant's brother, Emil Falk, owned an apartment house located at Hindenburg Platz 8, in Chemnitz, that was destroyed by war action in March 1945. The Commission is not authorized under Public Law 94-542 to grant awards for destroyed buildings since such property could not have been in existence after World War II to be the subject of a taking by the German Democratic Republic, as required under Section 602 of the Act.

The record indicates that Emil Falk left the German Democratic Republic in 1950, at which time he was a German national, and died in New York City on August 16, 1961. The record does not indicate if and when Emil Falk might have acquired United States citizenship, although claimant states that the remaining real property at Hindenburg Platz 8, in Chemnitz, was taken over by authorities in the German Democratic Republic at a time when it was not owned by a United States national. Therefore, the Commission finds that the claimant has failed to establish that the subject real property was taken by the German Democratic Republic at a time when it was owned wholly or partially by a United States national, as required for compensation under Section 603 of the Act. Thus, the real property involved herein would not form the basis of a compensable claim even if this claim had been timely filed.

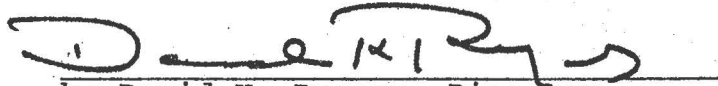
For the above cited reasons, the entire claim must be and hereby is denied.

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

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

MAY 28 1980

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, 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.)