

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

IN THE MATTER OF THE CLAIM OF

RUFUS M. ULLMAN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-0018

Decision No. G-0205

Counsel for claimant:

Frank E. Joseph, Esquire

PROPOSED DECISION

This claim in the asserted amount of \$990 against the Government of the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended, is based upon 33 coupons of \$30 each, originally part of a State of Prussia 6% Bond. The coupons were to be paid semi-annually from October 15, 1936, to October 15, 1952.

Under section 602, Title VI of the International Claims Settlement Act of 1949, as amended by Public Law 94-542 (90 Stat. 2509), 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 601 (3) provides the following definition.

"The term 'property' means any property, right, or interest, including any leasehold interest, and debts owed by enterprises which have been nationalized, expropriated, or taken by the German Democratic Republic for which no restoration or no adequate compensation has been made to the former owners of such property."

The claim under consideration is for the loss of interest related to coupons detached from a \$1,000 Bond of the State of Prussia issued prior to World War II. The bond itself was sold in default, by the claimant, prior to the filing of this claim. Prussia was a former German state in northern and central Germany which was dissolved after World War II. The territory of the former State of Prussia is now divided between East and West Germany, Poland and the Soviet Union. Whether or not the German Democratic Republic succeeded to the debts, or any part thereof, of the former State of Prussia need not be here decided since the Commission finds that such claims are not compensable under the express terms of Public Law 94-542.

It is a well established principle of international law, which this Commission has affirmed in past claims programs that the mere non-payment of a debt owed by a foreign government does not constitute a nationalization or other taking of property under international law as required by section 602 of the Act, supra. (See Decisions and Annotations of The Foreign Claims Settlement Commission (1968) pages 525 (Poland), 117 (Yugoslavia) setting forth the traditional policy of the United States not to espouse claims for defaulted government obligations.)

The Commission, in certain past programs, has found claims for the debt obligations of a foreign government compensable where the evidence established that there was an express annulment or cancellation of specific debt obligations by government decree or regulation which constituted a taking of the property right of the claimant or his predecessor in interest.

However, the claimant herein, has submitted no evidence of any such express repudiation, annulment, or cancellation of these bonds. The Commission has reviewed the laws, regulations and decrees of the German Democratic Republic since the end of World War II and finds no such repudiation, annulment or cancellation of such bond obligations by the German Democratic Republic.

The Commission is aware that in adjudicating claims against Cuba, the Commission found compensable claims based on such debt obligations based upon a mere failure to pay the obligations when due. However, that result was required by an express direction given to the Commission by Congress in authorizing the determination of those particular claims. Under Title V of the Act, which authorized the adjudication of those claims, the express language ". . .debts owed by the Government of Cuba. . ." was included in the definition of the term property. In considering the amendment which placed that language in the bill, the following comment was made: "The language inserted will make all Cuban Government debts subject to adjudication, regardless of whether there was outright repudiation or mere failure to pay." (Hearings on H.R. 10327, H.R. 10536, H.R. 10720, H.R. 12259, and H.R. 12260 before the Subcommittee of the House of Representatives on International Affairs of the Committee on Foreign Affairs, 88th Congress, Second Session, 52(1964) [emphasis added].) No such language was placed in Title VI of the Act, authorizing adjudication of claims against the German Democratic Republic.

It is therefore clear that neither the statutory language nor the legislative history of Public Law 94-542 indicates an intention on the part of Congress that the Commission should ignore the clear rule of international law that the non-payment of debt obligations by a foreign government does not constitute a nationalization or other taking of property under international law.

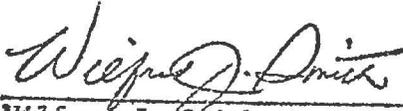
Therefore, the Commission finds that this claim based upon the loss relating to unpaid coupons from a \$1,000 6% bond issued by the State of Prussia is not compensable under the Act since the loss is not the result of the nationalization, expropriation or other taking of property by the German Democratic Republic within the meaning of the Act.

Accordingly, this claim must be and it is hereby denied.

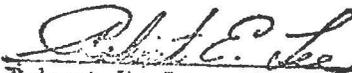
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

16 AUG 1978



Wilfred J. Smith, Commissioner



Robert E. Lee, Commissioner

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on 26 SEP 1978



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. 513.5 (e) and (q), as amended.)