

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

IN THE MATTER OF THE CLAIM OF

JOSEF KAUKER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-0127

Decision No. G-0040

PROPOSED DECISION

This claim in the asserted amount of \$300.00 against the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended, is based upon the loss of a camera.

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. . ."

Claimant, JOSEF KAUKER, stated at the time of filing that he acquired United States nationality on May 6, 1966, and that on September 7, 1966, during a trip to the German Democratic Republic, a Werra camera made and purchased in that country, was taken from him. In support of his claim he submitted a copy of a document entitled Beschlagnahme-Einziehungs-Protokoll, dated September 7, 1966, which shows that his camera was taken pursuant to Section 16, of the Customs Law of the German Democratic Republic dated March 28, 1962. This section of the law provides for the confiscation of goods as a penalty for intentionally importing or exporting such goods through the territory of the German Democratic Republic in violation of law.

In response to an inquiry dated September 8, 1977, the claimant verified that the subject camera was purchased in the German Democratic Republic and that it was confiscated when he tried to remove it from the country in violation of the Customs Law of that country.

Under the general principles of international law which this Commission is required to apply by Public Law 94-542 to claims against the German Democratic Republic, it is well recognized that independent governments have the right to punish by confiscation the attempted introduction of contraband articles or the attempted removal of goods which are prohibited from export.

In view of the foregoing the Commission finds that the loss of claimant's camera was the result of a violation of the laws of the German Democratic Republic prohibiting the export of this item and, therefore, such loss does not give rise to a valid claim under international law or under the provisions of Public Law 94-542. Accordingly, this claim must be and it is hereby denied.

The Commission finds it unnecessary to make determinations concerning any other elements of this claim.

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

6 OCT 1977

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on 28 NOV 1977

J. Raymond Bell

J. Raymond Bell, Chairman

Wilfred J. Smith

Wilfred J. Smith, Commissioner

Francis T. Matthews
Executive Director

Robert E. Lee
Robert E. Lee, Commissioner

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.)