

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

IN THE MATTER OF THE CLAIM OF

LIESELOTTE HEUMANN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-0821

Decision No. G-2785

Hearing on the Record held on MAR 18 1981

FINAL DECISION

This claim in the amount of \$42,000.00 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 farmland in Meseberg, a farm in Wolterslage, and a mortgage.

In its Proposed Decision, issued on November 19, 1980, the Commission denied the portion of this claim based upon claimant's own farmland in Meseberg since the record indicates that it was taken by the German Democratic Republic before she became a United States citizen on December 18, 1968, as required for compensation under section 603 of the Act. The Commission also denied the portion of this claim based upon the subject mortgage since the record did not indicate when it was inherited by the claimant or taken by the German Democratic Republic. With regard to the farm in Wolterslage, the Commission granted the claimant an award of \$10,000.00 for the taking of the subject farmhouse by the German Democratic Republic in 1971, but denied the claim for the 78 hectares of farmland on the ground that the land was taken by the German Democratic Republic in 1959, at a time when it was not owned by a United States national as required for compensation under the Act.

Claimant has objected to that part of the Commission's Proposed Decision denying the claim for the 78 hectares of farmland in Wolterslage. Claimant asserts that this farmland was not taken by the German Democratic Republic until after she had inherited this property from her brother, at which time she was a United States national as required for compensation under the Act. Claimant bases her Objection on the following grounds:

1. Her brother, Wilhelm Koehn, retained legal title to the farmland until his death, which the record indicates occurred in 1969.

2. The transfer of legal title to the claimant in 1971 shows that the farmland was not taken by the German Democratic Republic before then.

3 The Commission's finding that the farmhouse located on the property was not taken until 1971 indicates that the land would not have been taken before then either.

The basis of the Commission's finding in the Proposed Decision that the 78 hectares of farmland were taken by the German Democratic Republic in 1959 was a letter from Lissi Koehn, Wilhelm Koehn's widow in Wolterslage, dated December 12, 1971, stating that it had been used for the past 12 years by the local LPG (Agricultural Production Cooperative) without a lease and without paying consideration therefor. Based on this information, the Commission considers it reasonable to conclude that the subject farmland came under the purview of the "Law on the Agricultural Production Cooperative" of June 3, 1959, which provided for the collectivization of most remaining agricultural land in the German Democratic Republic that was not already under state control. Under this law private owners were compelled to join an LPG and turn over their land to the cooperative. Although legal title was not transferred to the LPG, the owners of the various parcels of farmland therein were not allowed any individual use thereof. Moreover, as evidenced by the 1971 letter from Lissi Koehn, the LPG was not obligated to pay individual owners any compensation for the use of their land.

With regard to the claimant's first two grounds of objection, the fact that legal title to the subject farmland was retained by the claimant's brother after 1959 and apparently transferred to the claimant after the death of Wilhelm Koehn in 1969 is not inconsistent with the Commission's finding that the subject property was nevertheless taken by the German Democratic Republic within the meaning of the Act. The Commission has consistently held in the German Democratic Republic Claims Program that the rights of property owners whose land came under the purview of the agricultural collectivization measures of 1959-1960 have been so restricted as to constitute a taking of their land within the meaning of section 602 of the Act. Since the record in the instant claim indicates that the Wolterslage farmland involved herein has been used by an LPG since 1959, the Commission concludes that it came under the purview of the aforementioned decree of June 3, 1959, and was thereby taken by the German Democratic Republic. As stated in the Proposed Decision, this taking occurred when the property was not owned by a United States national.

With regard to the claimant's third ground of objection, it does not follow that the farmland could only have been taken at such time as the farmhouse was taken, which the Commission determined in the Proposed Decision to have occurred about January 1, 1971. Lissi Koehn's letter of December 12, 1971 clearly indicates that, even while the farmland was used by the LPG without compensation since 1959, she and her husband lived uninterruptedly in the farmhouse. There is no evidence of any specific action taken against the farmhouse by the German Democratic Republic before the claimant's inheritance rights arose after the death of Wilhelm Koehn in 1969, even though the 78 hectares of farmland were being used by the LPG. Thus, the Commission's finding that the subject farmhouse was taken by the German Democratic Republic in 1971 does not give rise to the presumption that the adjoining farmland could not have been taken until then as well.

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

The Commission therefore affirms the Proposed Decision as its final determination of this claim, thereby granting the claimant an award in the principal amount of \$10,000.00 for the loss of the farmhouse in Wolterslage.

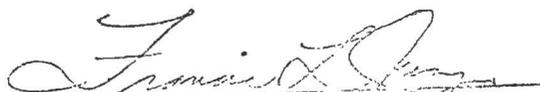
A W A R D

Claimant, LIESELOTTE HEUMANN, is therefore entitled to an award in the amount of Ten Thousand Dollars (\$10,000.00) plus interest at the rate of 6% simple interest per annum from January 1, 1971 until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.

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

MAR 18 1981


Richard W. Yarborough, Chairman


Francis L. Jung, Commissioner


Ralph W. Emerson, Commissioner

This is a true and correct copy of the decision of the Commission which was entered as the final decision on MAR 18 1981


Executive Director

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
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IN THE MATTER OF THE CLAIM OF

LIESELOTTE HEUMANN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-0821

Decision No. G-2785

PROPOSED DECISION

This claim in the amount of \$42,000.00 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 some 15.7 hectares of farmland in Meseberg, a 78 hectare farm in Wolterslage, and a 4,000 ostmark mortgage.

The record indicates that claimant became a United States citizen on December 18, 1968.

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."

The record contains a copy of a land record extract, dated December 29, 1952, indicating that the claimant was the owner of about 15.7 hectares of farmland in Meseberg. Claimant states that she immigrated from the German Democratic Republic to the United States in 1954 and that her farmland was taken over by the local LPG (Agricultural Production Cooperative) in 1955. Correspondence from the State Notary Office in Osterburg, dated October 20, 1978, and from the District Council of Osterburg, dated June 26, 1979, advised the claimant that her property in the German Democratic Republic had come under the purview of the Directive No. 2 of August 20, 1958 on the Handling of Property of Persons who Leave the German Democratic Republic after June 10, 1953. This directive, which applied to persons who left the German Democratic Republic without the permission of state authorities, subordinated the property of such persons to state administration and denied them any right to make use of their property or collect any income deriving therefrom.

The Commission finds that the application of this statute against the claimant constituted a taking of her 15.7 hectares of farmland in Meseberg, within the meaning of section 602 of the Act. However, since the directive effecting a taking of the property was issued long before the claimant acquired United States citizenship in 1968, the Commission also finds that the subject property was not taken at a time when it was owned by a United States national, as required for compensation under section 603 of the Act. Therefore, this part of the claim for the loss of farmland in Meseberg must be denied.

With regard to the mortgage bond claimed for herein, the record contains a copy of a certificate of receipt from the Bank fuer Handwerk und Gewerbe, dated June 2, 1955, acknowledging that it had received from Ewald Engel a 4,000 ostmark 5% mortgage bond of the Deutsche Investitionsbank for safekeeping. A subsequent letter dated August 3, 1956 from Otto Krentz, an acquaintance in the German Democratic Republic, indicates that Ewald Engel had prepared a will designating the claimant as beneficiary of the subject mortgage bond, with interest payable to the claimant's mother for life.

There is no evidence in the record, however, to indicate the date of death of Ewald Engel, who was a citizen of the German Democratic Republic. The Commission has no basis to presume, therefore, that claimant inherited the subject mortgage bond as late as December 18, 1968, the date of her naturalization as a United States citizen, or that the bond was only taken after that date by the German Democratic Republic. Therefore, the Commission finds that the record is insufficient to establish that the 4,000 ostmark mortgage bond claimed for herein was taken by the German Democratic Republic at a time when it was owned by a United States national, as required for compensation under section 603 of the Act. Thus, this part of the claim must also be denied.

The record includes copies of land record extracts from the District of Osterburg, dated December 29, 1952, indicating that claimant's mother, Margarete Koehn, was the owner of some 58 hectares of farmland in Wolterslage and that claimant's brother, Wilhelm Koehn, was the owner of some additional 20 hectares of farmland in Wolterslage. Claimant asserts that Margarete Koehn died in 1957, with Wilhelm Koehn succeeding to her estate, and that claimant subsequently succeeded to the entire estate of Wilhelm Koehn, who died in 1971. Both Margarete Koehn and Wilhelm Koehn were citizens of the German Democratic Republic.

The record includes a copy of a letter dated December 12, 1971 from Lissi Koehn, who claimant states was the widow of Wilhelm Koehn, indicating that the claimant had inherited the entire estate. Lissi Koehn indicated that the claimant had been recorded in the land register, but advised her that the subject real property was under state administration since she had left the German Democratic Republic illegally. The letter also stated that the subject farmland had been used for the past 12 years by the local LPG (Agricultural Production Cooperative) without a lease. Since the LPG is a state entity and apparently paid no consideration for the use of the subject farmland since 1959, the Commission finds that the 78 hectares of farmland inherited by the claimant from her brother were taken by the German Democratic Republic, within the meaning of section 602 of the Act, in 1959. At that time, however, the subject farmland was not owned by a United

States national, as required for compensation under section 603 of the Act. Therefore, this part of the claim based upon the loss of 78 hectares of farmland in Wolterslage must also be denied.

The aforementioned letter of December 12, 1971 from Lissi Koehn, however, also indicates that a farmhouse was located on the subject 78 hectares of land in Wolterslage. The letter does not indicate that this house had been taken over by the German Democratic Republic before the death of Wilhelm Koehn, at which time claimant would have been registered as the owner thereof, as indicated by Lissi Koehn. In light of Lissi Koehn's assertion that all of the claimant's property was under state administration in 1971 and the aforementioned correspondence the claimant received from authorities in the German Democratic Republic in 1978 and 1979, the Commission finds that the subject farmhouse has been taken by the German Democratic Republic within the meaning of section 602 of the Act.

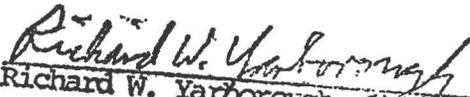
In the absence of specific evidence as to the date of Wilhelm Koehn's death and the date that state administration commenced, the Commission determines that the house was taken by the German Democratic Republic on or about January 1, 1971. Based upon the entire record, the Commission finds that the subject house had a value of \$10,000.00 at the time of taking. Claimant is therefore entitled to an award in that amount for its loss.

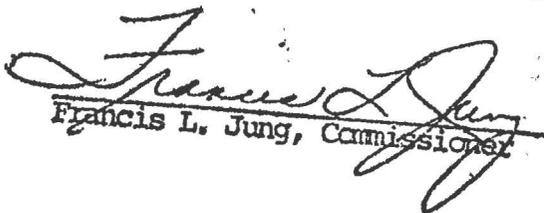
The Commission has concluded that in granting awards on claims under section 602 of Title VI of the Act, for the nationalization or other taking of property or interests therein, interest shall be allowed at the rate of 6% per annum from the date of loss to the date of settlement. (Claim of GEORGE L. ROSENBLATT, Claim No. G-0030, Decision No. G-0100 (1978)).

A W A R D

Claimant, LIESELOTTE HEUMANN, is therefore entitled to an award in the amount of Ten Thousand Dollars (\$10,000.00) plus interest at the rate of 6% simple interest per annum from January 1, 1971 until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.

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


Richard W. Yarborough, Chairman


Francis L. Jung, Commissioner

NOV 19 1980

NOTICE: Pursuant to the 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).