

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

IN THE MATTER OF THE CLAIM OF

DOROTHY S. PRAEGER

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. G-2846

Decision No. G-2386

Hearing on the Record held on APR 22 1981

FINAL DECISION

This claim in the amount of 22,814.50 ostmarks 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 various items of personal property and a savings account inherited by the claimant from her mother, who died in East Berlin on July 20, 1965.

In its Proposed Decision, issued on July 16, 1980, the Commission denied this claim on the grounds that the claimant had not established her inheritance rights in the subject property in accordance with the laws and regulations of the German Democratic Republic or demonstrated that the property interests involved herein had been the subject of a "nationalization, expropriation, or other taking" by the German Democratic Republic. The Commission also cited information received from authorities in the German Democratic Republic indicating that inheritance rights must be established within 10 years of the death of the predecessor in interest or the estate may be subject to an escheat to the State, which would not constitute a taking within the meaning of the Act.

Claimant has objected to the Proposed Decision on the following grounds:

(1) The certificate of inheritance she obtained in West Berlin in 1969 would not have been accepted by authorities in East Berlin as evidence of claimant's status as her mother's sole heir.

(2) The 10-year period for the claimant to establish her inheritance rights before they would escheat to the State should be considered to have commenced in September 1974, when the United States and the German Democratic Republic established diplomatic relations and agreed to negotiate financial claims. Claimant asserts that the claim registration form she filed with the Commission in 1975 established her legal right of inheritance well within this 10-year period.

1. With regard to the first Objection, it may well be that the certificate of inheritance the claimant obtained in West Berlin in 1969 would not have satisfied the requirements of the German Democratic Republic to establish her inheritance rights. However, the record indicates that claimant was advised to obtain a certificate of inheritance in a February 26, 1966 letter from the settlor of her mother's estate, Georg Prickler, and there is no evidence that claimant acted upon this advice until May 28, 1979, when she wrote to the Law Office for International Civil Law Matters in East Berlin. Claimant was then referred to the State Notary Office of Prenzlauer Berg in East Berlin, to whom she wrote letters on July 15, 1979 and January 27, 1980. Claimant received a reply from the State Notary Office of Berlin-Lichtenberg, dated May 6, 1980, which included the application for a certificate of inheritance. Claimant returned the application to the State Notary Office of Berlin-Lichtenberg in July 1980. A follow-up letter was sent to this office on August 27, 1980, although it does not appear that claimant's inheritance rights have yet been confirmed by the German Democratic Republic.

The foregoing evidence would appear to indicate that the savings account and various items of personal property involved herein have not escheated to the State. It also seems reasonable

to conclude that claimant's inheritance rights in the subject property may be recognized by the German Democratic Republic in the near future. In her July 28, 1980 letter to the Commission objecting to the Proposed Decision, claimant herself states that "I strongly believe that the case is not closed." Thus, the evidence of record in this claim still does not establish that the subject bank account and items of personal property have been the subject of a "nationalization, expropriation, or other taking" by the German Democratic Republic, as required for compensation under the Act.

2. With regard to the claimant's second Objection, her filing of a claim registration form with the Foreign Claims Settlement Commission in 1975 in no way established her legal right to the subject property in her mother's estate in accordance with the laws and regulations of the German Democratic Republic. The German Democratic Republic would have been totally unaware of this claim registration form which, in any event, included none of the documentation necessary to establish inheritance rights either in the United States or the German Democratic Republic.

Therefore, the Commission concludes that the claimant has not established that the property interests involved in this claim have been the subject of a taking by the German Democratic Republic. The Commission also notes, however, that the claimant might be eligible to file a claim in a second German Democratic Republic claims program, should such a program be administered in the future, in which she could attempt to show that the property interests in her mother's estate have been taken by the German Democratic Republic since October 18, 1976--the date Public Law 94-542 authorizing the current German Democratic Republic claims program was enacted.

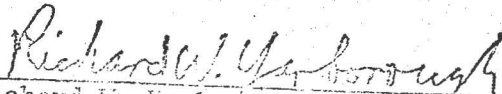
Full consideration having been given to the entire record, including the claimant's Objections, the Commission finds that the evidence does not warrant any change in the Proposed Decision denying this claim.

Accordingly, it is


ORDERED that the Proposed Decision be and it hereby is affirmed as the Commission's final determination on this claim.

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

APR 22 1981

  
Richard W. Yarborough, Chairman

  
Francis H. J. [unclear]

  
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 APR 22 1981

  
Executive Director

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PROPOSED DECISION

This claim in the amount of 22,814.50 ostmarks 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 various items of personal property and a savings account inherited by the claimant from her mother, who died in East Berlin on July 20, 1965.

The record indicates that claimant became a United States citizen on June 23, 1958.

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. . ."

The record establishes that claimant's mother, Johanna Setzkorn, a citizen of the German Democratic Republic, owned various items of personalty and a savings account at the Sparkasse der Stadt Berlin at the time of her death in 1965. Claimant is the sole heir of Johanna Setzkorn. The record includes correspondence from Georg Prickler, the guardian of claimant's mother and the settlor of her estate, indicating that Johanna Setzkorn's personal property had a tax value of 1,648.50 ostmarks and that her savings account had a balance of 21,166 ostmarks. Mr. Prickler informed the claimant by letter dated February 26, 1966, that these assets were on deposit at the State Notary Office of Prenzlauer Berg in East Berlin and that claimant had to secure a certificate of inheritance to establish her ownership interest therein.

Although a certificate of inheritance was obtained in West Berlin in 1969 to establish the claimant's ownership right in a separate bank account in West Berlin, claimant indicates that no copy of this document was forwarded to the State Notary Office of Prenzlauer Berg in East Berlin. Nor did the claimant attempt to obtain another certificate of inheritance from officials in East Berlin until 1979--fourteen years after her mother's death. The record indicates that claimant has been unsuccessful in her efforts to procure this certificate of inheritance or otherwise establish her right to Johanna Setzkorn's estate. The Commission has been informed by authorities in the German Democratic Republic, however, that inheritance rights must be legally established within ten years of the death of the predecessor in interest, after which the estate of the deceased may be subject to an escheat to the State.

On the basis of the entire record, the Commission concludes that the claimant has not established an ownership interest in the assets of Johanna Setzkorn's estate. Even if the subject personalty and bank account escheated to the State ten years after Johanna Setzkorn's death, the Commission finds that such an escheat would not constitute an act in violation of international law, but a legal response to the claimant's failure to establish her inheritance right to the estate in conformance with the laws and regulations of the German Democratic Republic. Therefore, the Commission holds that the claimant did not acquire an interest in any property that has been subject to a "nationalization, expropriation, or other taking" by the German Democratic Republic, as required for a claim to be found compensable 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.

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

JUL 16 1980

*Richard W. Yaborough*  
Richard W. Yaborough, Chairman

*Francis L. Jung*  
Francis L. Jung, Comptroller

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 of 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.)