

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

IN THE MATTER OF THE CLAIM OF

MARTIN BENDRICK

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-3285

Decision No. G-0220

Appeal and objection from a Proposed Decision entered on August 30, 1978. No Oral Hearing Requested.

Hearing on the Record held on September 5, 1979.

FINAL DECISION

This claim in the asserted amount of \$14,634.10 against the Government of the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended, is based upon a bank account in Leipzig, German Democratic Republic.

Claimant became a United States citizen in 1969.

In its Proposed Decision dated August 30, 1978, the Commission denied this claim for the reason that the record indicated that claimant's bank account had not been nationalized or otherwise taken by the German Democratic Republic and that in fact claimant had some limited access to the funds in the account in the German Democratic Republic, albeit within the limitations of the currency regulations of that country.

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 objected to the Proposed Decision by letter dated September 24, 1978, and in support of his objection he submitted a copy of a letter to him dated July 25, 1978, from a lawyer in East Berlin which stated that because of the lack of an agreement, citizens of the United States with accounts in the German Democratic Republic and citizens of the German Democratic Republic with accounts in the United States could not obtain their assets. Claimant also submitted a copy of an item dated September 17, 1969, recognizing him as an outstanding citizen of the New Year in Chicago.

The claimant in this case obtained a court judgement in the amount of 30,000 DM from a former business associate in a court in West Germany. However, the associate moved to East Germany and for a number of years, due to the lack of diplomatic relations, the claimant was unable to enforce this judgement. However, with the establishment of diplomatic relations, he was able to obtain an attorney in East Berlin who obtained apparently a court order from an East German court ordering the business associate to pay the 30,000 DM judgement. This, however, was paid in East German marks into an account in East Germany. This account is blocked, meaning it cannot be converted into dollars and taken out of East Germany, however, certain uses are allowed in East Germany.

At the present time the regulations allow a withdrawal of 15 DM per day by the claimant while in East Germany. In addition, certain other uses are allowed of blocked accounts, apparently up to 200 marks per month may be withdrawn for support of relatives in East Germany and withdrawal may be made for such purposes as keeping up grave sites.

As pointed out in the Proposed Decision on this claim, although the fact of the blocking of claimant's account does cause some hardship, the Commission is not authorized under section 602 of the Act to grant an award for such restraints on the use of the funds because such action does not constitute a nationalization, expropriation or other taking by the German Democratic Republic. While it may now seem unlikely, it is possible that some or all of the restrictions presently placed on foreign owned bank accounts may be removed in the future.


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


Accordingly, it is

ORDERED that the Proposed Decision be and it is hereby affirmed.

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

SEP 5 1979


Richard W. Yarborough, Chairman


Wilfred J. Smith, Commissioner

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on SEP 5 1979


Executive Director

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IN THE MATTER OF THE CLAIM OF

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PROPOSED DECISION

This claim in the asserted amount of \$14,634.10 against the Government of the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended, is based upon a bank account in the amount of 30,000 DM, in East Berlin.

Claimant became a United States citizen in 1969.

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, MARTIN BENDRICK, stated at the time of filing his claim that he received from a debtor 30,000 DM which was deposited in a bank account in the Staatsbank of the German Democratic Republic in East Berlin. Claimant received notice as of December 23, 1977, that the account had been established, but that the account was blocked.

Currency regulations in the German Democratic Republic, as in many other countries, place limitations upon the free use of bank accounts, allowing withdrawal within the German Democratic Republic

in certain amounts for certain specified purposes but prohibiting the conversion of the funds to foreign currency. An account subject to such regulations is termed a "blocked account."

The Commission has held that it is a well established principle of international law that such blocking of a bank account is an exercise of sovereign authority which does not give rise to a compensable claim. (See In the Matter of the Claim of IBM World Trade Corporation, Claim No. HUNG-21107, Decision No. HUNG-2030, Final Decision).

While the fact of the blocking of the account may cause non-residents of the German Democratic Republic some hardship, the Commission concludes that such action does not constitute a nationalization, expropriation or other taking as required for compensation under section 602 of the Act, supra.

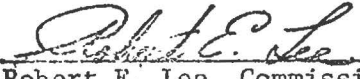
Accordingly, for the foregoing reasons this claim must be and it is hereby denied.

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

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

30 AUG 1978


Wilfred J. Smith, Commissioner


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.)