

UNITED NATIONS
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ORIGINAL: ENGLISH

PETITION FROM DR. HEINZ LANGGUTH
CONCERNING TANGANYIKA

Note by the Secretary-General: In accordance with rule 85 and supplementary rule F of the rules of procedure for the Trusteeship Council, the Secretary-General has the honour to transmit to the members of the Trusteeship Council and to the Government of Italy as the Administering Authority of the Trust Territory of Somaliland; a communication dated 20 October 1952 from Dr. Heinz Langguth on behalf of Mr. Gustav von Heyer concerning the Trust Territory of Tanganyika.

COPY

DR. HEINZ LANGGUTH
Rechtsanwalt

HAMBURG 1,
Rathausmarkt. Fölsch-Block

20th October 1952

To the
UNITED NATIONS
LAKE SUCCESS
FIELDSTONE 7
NEW YORK

c/o:

Victor Hoo, Esq.
Assistant Secretary General
Department of Trusteeship and Information
from Non-self-Governing Territories.

Re: Release of property of the Danzig citizen Gustav von Heyer confiscated
by the Custodian of Enemy Property at Tanganyika Territory.

Sir,

I have the honour to inform you that I have been asked by Mr. Gustav von Heyer, to advocate his interests at the competent authorities in view to the release of his property confiscated in Tanganyika Territory and to payment of compensation for the revenue lost since 1939. Please find enclosed my power of attorney (appendix No.1.)^{1/}

I beg to bring before you the following items:

I.

- 1) In article 132 of the Treaty of Versailles, the German Reich had abandoned

^{1/} Note by the Secretariat: The appendices mentioned throughout this document, with the exception of the power of attorney, have been received and placed in the files of the Secretariat. These enclosures are available to members of the Trusteeship Council upon request. A brief statement of their contents appears in the annex hereto.

the present territory of Tanganyika as a German colony in favour of the Main-Powers. This abandonment to the Main-Powers, however, was only a preliminary one as the Main-Powers were bound according to article 22 of the statutes of the League of Nations to hand over to the League those territories "who are not yet able to administrate themselves in the present world at the especial difficult conditions". The League of Nations, however, was kept to put them under guardianship of "Advanced Nations", who had "to lead them as mandatary of the League of Nations and in its name". The principles of art.22 were detailed in special treaties which were contracted with each mandatary under approval of the Council of the League of Nations. This mandated system ended by the dissolution of the League of Nations. The League, however, took notice of the readiness of the former mandataries to put the mandated territories under the authority of the new regime of trusteeship of the United Nations. Article 75 of the statutes of the United Nations expressly states that the United Nations erect "under their authority a system of International Trusteeship, for the

A d m i n i s t r a t i o n and S u p e r v i s i o n
of territories who are put under control of this system by special agreements". In art.81 of the statutes of the United Nations, the authority commissioned with the administration of these territories is called: "The Administration Authority". On 13/th December 1946, the General Meeting has approved such draft trusteeship agreements. By this arrangement, the territory of Tanganyika as former German colony and as former mandated territory of the League of Nations was put under the administration and supervision of the United Nations. The Trust-territories, therefore, are administered by a state as trustee under the supervision of the General Meeting of the United Nations. In view to these competences of administration of the Trust Territories outlined in the statutes of the United Nations, I solicit:

- 1) to take up the matter of release and compensation for lost revenue of the Danzig national Gustav von Heyer,

- 2) to give instruction to the authorities of Tanganyika Territory, immediately to release the property of the above named and to grant compensation for his lost revenue since 1939.

II.

The property of the above named Gustav von Heyer is n o t subject to confiscation by the Custodian of Enemy Property at Tanganyika. Mr. von Heyer was a D a n z i g n a t i o n a l at the time of the outbreak of world-war II, that is: 1.9.1939. He is still in the possession of the D a n z i g nationality at present. Supposing that the Free State of Danzig would have perished in the sense of International Law, the aforementioned would then be a "displaced person" (statthenlos). In any case, he has not been an enemy - national and is not so to-day. So, for reason of International Law, his property is to be given back to him together with all compensation for the lost usufruct since 1939.

I beg to hand over to you

- appendix No. 1 -

an expert-opinion with 5 supplements concerning the legal standpoints in consideration and the whole available material regarding the legal position of the Free City of Danzig.

In Part "I" of the opinion the status of the Free City of Danzig has been explained according to the ruling International Law, the State-practice of the Western Powers and the decisions of foreign and german Courts and authorities.

In Part "II", the continuance of the Danzig nationality in ex-german countries and, especially according to decisions of foreign and german Courts and authorities - also of those Danzig citizens who, like Mr. von Heyer, lived and still live in germany during the war and after 1945 - has been proved.

Finally, it is stated in Part "III" that Mr. von Heyer should be treated as "displaced person" (staatenlos) if the opinion in view to the continuance of the Free City of Danzig - shown under "I" and "II", - would be wrong because of the extinction of the Danzig Freestate, - which is the interpretation of Soviet Russia. At any rate, Mr. von Heyer is to be treated e i t h e r as a Danzig citizen according to the ruling International Law, or as a "displaced

person", according to the view of Soviet Russia. By no means, however, has he acquired the Reichsgerman nationality by his stay in germany during the war and after 1945.

On account of this material the release of confiscated Danzig property abroad has ocured in several cases.

The Danzig citizens were n o t treated as enemy-subjects in these decisions. The decisions are quoted in my expert-opinion. I would like to emphasize three cases especially in this letter and I beg to draw your attention to these statements:

- 1) The decision of the Court of Appeal, "Raad voor het Rechtshestel" at Amsterdam of 13.9.1951 in re: Mrs. Krüger, This sentence is repeatedly detailed in my expert-opinion and is attached as appendix No.4.

The sentence comes to the following result:

"repeals the decision of the Netherlands Beheersinstitut whilst the appeal understands that the appellant has never been an enemy subject in the sense of the "Decisions about Enemy Property"

Mrs. Krüger - like Mr. von Heyer - lived in germany.during the war. The COURT has stated that also those persons are furtheron Danzig nationals who lived in Danzig respectively germany on 1.9.1939 or after this date.

- 2) The Office of the United States High Commissioner for Germany has joined this sentence in re: Loubier. (See appendix No. 5 of my expert-opinion). In this decision it is worded:

"In view of the decision of the "Raad voor het Rechtsherstelt which you submitted and according to which, under Dutch law, the property of Danzig citizens is not subject to sequestration in Holland since they are not considered enemy nationals, we are prepared to release Mr. Loubier's AKU certificates."

Mr. Loubier lived in germany several years before 1939, that means before the war, he lived in germany during the war and he is still living in germany now as ever.

- 3) In re: Lewis and Lewis, the British authorities in Great Britain have released the confiscated property of a Danzig firm on account of a decision

of the Consul-General of the Federative Republic of Germany at London. The decision of the Federative Republic of Germany, foreign office, in this case, is handed as

- appendix No.3 -

Also this firm stayed in Germany during the war - like Mr. von Heyer. - The expert-opinion of Prof. Dr. Kaufmann (see appendix No. 1) was before the COURT OF APPEAL at Amsterdam, "Raad voor het Rechtsherstel", as well as before the Office of the United States High Commissioner for Germany. May it be mentioned that Prof. Dr. Kaufmann was the legal representative of the Free City of Danzig in the processes at the PERMANENT INTERNATIONAL COURT at HAAG before 1939 and that he possesses special knowledge on this sphere. This opinion has been quoted literally in all important points. The release of property of such persons who have been compulsorily naturalized by annexion since 31st December 1937, corresponds to the permanent practice of administration of the competent authorities in Great Britain. The juridical basis for this, is the "Distribution of German Property, Act 1949, sec.8, sus.1, lit.B." in which Great Britain does not regard as German Nationals all such persons who have been compulsorily naturalized since 31.12.1937. This juridical basis must very particularly be paid attention to by the government of the mandated Tanganyika Territory. In view to the above mentioned legal standpoints the property of the Danzig citizen Gustav von Heyer is not subject to confiscation and must be placed at his absolute disposal to its full extent together with the compensation for the revenue lost since 1939.

III.

Regarding the nationality of Mr. von Heyer, I have the honour to forward

- appendix No. 2 -

photocopy of a certificate of settlement (Heimatschein) of the Free City of Danzig, dated 7.7.1924, and

- appendix No. 3 -

photocopy of a certificate of Settlement, dated 8.11.1938^{1/}, and

- appendix No. 4 -

photocopy of passport Nr. H. 365/33, issued by the Chief Commissioner of Police at Danzig, dated 8.6.1933.

From these documents especially from the certificate of settlement of 8.11.1938 follows that Mr. von Heyer possessed the Danzig nationality at the date of the outbreak of the war on 1.9.1939. According to the statements of the expert-opinion, handed as appendix No. , Mr. von Heyer has n o t lost the Danzig nationality by events of world-war II.

From the certificate of settlement of 7.7.1924 follows, that Mr. von Heyer has been a Danzig citizen allready at that time and not only since the issue of the passport on 8.6.1933 which was only a renewal of the old passport. That is to say that Mr. von Heyer became a Danzig national according to the regulations of the Treaty of Versailles because he was a resident of Danzig at the referred date. The family of Mr. von Heyer lived in the territory of the Free City of Danzig since generations!

The Danzig nationality is an independant nationality and is also independant from the individual national descent.

In view to his Danzig nationality, Mr. von Heyer protested against his internement on 3.9.1939, first verbally to the sergeant who arrested him on his plantation at Oldeani and later on by writings to the government of Tanganyika, expressly stating that he was not a german but a Danzig national. Mr. von Heyer has then been d e p o r t a t e d from Tanganyika to germany on 12.1.1940 by the certificate of deportation photocopy of which, please, find enclosed as

- appendix No. 5 -

Of course, Mr. von Heyer has been a german by birth but he lost the german nationality in 1920 and has acquired the special independant Danzig nationality. In consequence to this Danzig nationality he can n o t be treated as a german according to Tanganyika German Property Disposal legislation, as this is in contrast to International Law.

Mr. von Heyer, however, as proved in the expert-opinion, has not become a german national even by his stay in germany during the war, which certainly was

unknown to the Tanganyika authorities till now. Consequently, Mr. von Heyer is n o t an enemy-national but was and has remained a Danzig national also during his stay in Germany in the time of the war and he has got a l e g a l c l a i m according to International Law, to be treated in all countries as well as in Germany itself, as a DANZIG NATIONAL and n o t as an enemy-national! Besides, Mr. von Heyer was not repatriated as it is said in the letter of 15.5.1951 (See appendix No.6) but he was deported as it is quoted in the certificate of 12.1.1940 (see appendix No.5).

If Mr. von Heyer agreed to be brought to Danzig respectively to Germany, this was only in order to escape a further internment for long years which he had to expect after his application to return to his plantation had no result.

Never, however, this act was made in order to acquire the German nationality and to renounce the Danzig nationality! The acquisition of German nationality needed the formalities of the German Nationality-Law of 1913 which were not given by the act of deportation from Tanganyika Territory.

Besides, the internment and deportation of Mr. von Heyer as a Danzig national in Tanganyika was contrary to International Law! All Danzig nationals in Great Britain and America were at liberty during the war!

In the expert-opinion it is also unobjectionably proved (II,2) that all those Danzig nationals who at the outbreak of world-war II respectively during the war, after the capitulation or at present, live or lived in the Federative Republic of Germany, have - now as ever - retained their Danzig nationality and have n o t become Reichsgerman nationals!

It is referred to the above mentioned equal cases (British authorities in view to the decision of the consulate general of the Federative Republic of Germany, London - see appendix No.3 - , sentence of COURT OF APPEAL at Amsterdam, Raad voor het Rechtsherstel - see appendix No.4 - and Office of the United States High Commissioner for Germany, Frankfurt/Main in the decision of 10.4.1952 (ap.5). My client Mr. von Heyer, has repeatedly addressed the competent authorities in Tanganyika Territory. Enclosed, please, find, as

- appendix No. 6 -

letter to the Custodian of German Property in London, dated 16.4.51 and as

- appendix No. 7 -

the answer of The Member of Land and Mines, dated 15.5.1951. In consequence to this answer, my client renewed his address to the Member for Lands and Mines by his then being authorized lawyer Dr. Alfonso Stegemann and on 14.1.1952, the Member for Lands and Mines answered as is shown in

- appendix No. 8 -

In consequence of the decisions of the Member for Lands and Mines, shown in appendix 7 and 8, my client feels induced to trespass now on the help and assistance of the United Nations for release of his property.

I most respectfully ask you to acknowledge receipt of this letter and to inform me about what steps will be taken by the Administration of Trusteeship of the United Nations.

I have the honour, to be,

S I R,

Yours faithfully

(Signed) H. LANGGUTH

Received at United Nations Headquarters: 23 October 1952

ANNEX

List of documents appended to T/PET.2/161

Power of attorney conferred on Dr. Heinz Langguth on behalf of petitioner. (Not received.)

1. Argument by Dr. Langguth in support of the thesis that, inter alia, the Free City of Danzig and the Danzig nationality are still in existence (23 pages) supported by the following documents:

- (i) "The Legal Status of the Free City of Danzig" - an opinion by Professor Dr. E. Kaufmann, Member of L'Institut de Droit International, dated 17 May 1950 (5 pages);
- (ii) Letter dated 11 March 1948 from Professor Dr. Laun, of Hamburg, to "The Representation of the Free City of Danzig" (1 page);
- (iii) Letter dated 14 September 1951 from the German Consul in London to Messrs. Lewis and Lewis, of Holborn, London (1 page);
- (iv) Judgment of the Court of Appeal at Amsterdam on 13 September 1951 in the case of Mrs. Clara Hedwig Louise Krüger (4 pages);
- (v) Letter dated 10 April 1952 from the Chief, External Claims Branch, Office of the United States High Commission for Germany, agreeing - in the light of the Amsterdam judgment - to release certain assets belonging to a Mr. Loubier.

2. Photostat copy of petitioner's certificate of settlement in Danzig dated 7 July 1924.

3. Photostat copy of certificate of settlement in Danzig, dated 8 November 1938, issued in the name of Frau Edith von Heyer.

4. Photostat copy of passport issued to petitioner by the Danzig police on 8 June 1933.

5. Certificate of Deportation of petitioner from Tanganyika Territory signed by the Governor on 12 January 1940.

6. Letter dated 16 April 1951 from Dr. A Stegemann of Hamburg, legal

representative of petitioner, to the Custodian of German Property, Colonial Office, London, praying that petitioner's property in Africa be restored to him.

7. Letter No. 37797/97/8 dated 15 May 1951 from the Member for Lands and Mines, Tanganyika, to Dr. Stegemann (in reply to Appendix 6) stating, inter alia, that petitioner is held to be a German national for the purpose of the Tanganyika German Property Disposal legislation, and that it has been decided that he should not be re-vested with his property which has been disposed of in pursuance of the law.

8. Letter No. 37797/97/28 dated 14 January 1952 from the Member for Lands and Mines, Tanganyika, in reply to a further letter from Dr. Stegemann dated 12 November 1951, regretting that it is not possible to vary the decision reached in the petitioner's case and explaining that petitioner, by reason of his residence in Germany during the war is an "enemy" for the purposes of the legislation referred to in Appendix 7.

NOTE.

The petition and Appendix 1, together with all the appendices to Appendix 1, were submitted in both English and German.
