

ORIGINAL DOCUMENTS IN SAFE

55

Case No. 483

Date of filing: 1. Mar 89

** AWARD - Type of Award Final
 - Date of Award 1. Mar 89
5 pages in English 5 pages in Farsi

** DECISION - Date of Decision _____
 _____ pages in English _____ pages in Farsi

** CONCURRING OPINION of _____
 - Date _____
 _____ pages in English _____ pages in Farsi

** SEPARATE OPINION of _____
 - Date _____
 _____ pages in English _____ pages in Farsi

** DISSENTING OPINION of _____
 - Date _____
 _____ pages in English _____ pages in Farsi

** OTHER; Nature of document: _____

 - Date _____
 _____ pages in English _____ pages in Farsi

IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه داری دعاوی ایران - ایالات متحدہ
ثبت شد - FILED	
Date	1 MAR 1989
۱۳۶۷ / ۱۲ / ۱۰	

CASE NO. 483

CHAMBER TWO

AWARD NO. 413-483-2

LILI TOUR,

Claimant,

and

THE GOVERNMENT OF THE
ISLAMIC REPUBLIC OF IRAN,

Respondent.



AWARD

I. THE PROCEEDINGS

1. The Claimant, by the name of LILI TOUR ("the Claimant")¹ filed a Statement of Claim on behalf of herself and her three children,² on 18 January 1982, against THE GOVERNMENT OF THE ISLAMIC REPUBLIC ("the Respondent") including the BONYAD-E MOSTAZAFAN FOUNDATION ("Mostazafan Foundation") and successors, assigns, affiliates and other entities controlled by the Respondent and the Mostazafan Foundation, for the alleged expropriation or confiscation of the Claimant's share of 4.2 percent interest in a company, interest in other unspecified enterprises and personal property. The Claim is for a sum exceeding U.S.\$6,000,000. The Claimant alleges that her Claim arose sometime in 1980.

2. The Respondent, in its Statements of Defence filed on 27 September 1982, asserted, inter alia, that the Claim was baseless,³ and objected to it particularly on jurisdictional grounds by arguing that the Claimant and her dependents were exclusively Iranian nationals.

3. In response to the Tribunal's Order of 6 December 1982, the Claimant, on 24 March 1983, filed, inter alia, an affidavit dated 9 December 1982, alleging that she became a U.S. citizen in 1961. She, however, failed to provide any documentary evidence or even her married name. Nor was there any documentary evidence submitted to verify the alleged U.S. nationality of her three children.

¹The Tribunal notes that no positive evidence has been filed to verify the identification of the Claimant, who asserted that the Claim was filed under her maiden name.

²The Claimant alleges that all three of her children were minors when the Claim arose.

³The Respondent also filed a Rejoinder on 20 December 1982, which asserted that the Respondent did not intend to file further evidence until the Claimant filed evidence
(Footnote Continued)

4. After the Full Tribunal's decision in The Islamic Republic of Iran and The United States of America, Decision No. DEC 32-A18-FT (6 April 1984), reprinted in 5 Iran-U.S. C.T.R. 251, the Tribunal requested the Claimant to file any further documentary evidence she wished the Tribunal to consider in determining whether she was a national of the United States of America or the Islamic Republic of Iran, or both, and in case the Claimant was a national of both countries, evidence relating to the Claimant's dominant and effective nationality. Likewise, the Tribunal ordered the Respondent to file all documentary evidence it wished the Tribunal to consider with regard to the issue of the Claimant's nationality.

5. In response, the Claimant filed on 5 December 1985 a communication with the Tribunal, which asserts that for reasons of personal safety the Claimant did not intend to file any further documentation other than the Claimant's affidavit of 9 December 1982, and other relevant submissions already filed. The Respondent on 18 August 1988, filed with the Tribunal its brief regarding the Claimant's nationality and argued therein that the Claimant inter alia failed to file any evidence of her U.S. nationality or those of her children. Consequently, the Tribunal by its Order of 1 September 1988, requested the Claimant, if she so wished, to file any evidence and brief on the issue of her nationality by 2 November 1988, and upon such filing the Respondent was requested to file rebuttal evidence by 2 January 1989. The Claimant did not choose to file any evidence and the Tribunal proceeds in accordance with its Order of 6 June 1987, to take a decision regarding its jurisdiction on the issue of the Claimant's nationality.

(Footnote Continued)

which clearly identified the alleged Claim in accordance with the Tribunal Rules.

II. REASONS FOR THE AWARD

6. In accordance with the various criteria set forth by the Full Tribunal in the A18 decision (paragraph 3, supra), the Tribunal must first determine on the basis of the evidence whether the Claimant and her children were, during the relevant period from the time her Claim arose until the date of the Claims Settlement Declaration, 19 January 1981, nationals of the United States or of Iran, or of both countries, and, if nationals of both countries, their dominant and effective nationality during that period. It was the particular burden of the Claimant to initially substantiate her Claim with adequate supporting evidence of U.S. nationality of herself and her children during the relevant period. Although the Tribunal provided the Claimant with adequate opportunities to file the relevant evidence, the Claimant did not produce any evidence that would have substantiated her U.S. nationality or the U.S. nationality of her children. The Claim, therefore, fails for lack of proof of the jurisdictional requirements of Article VII of the Claims Settlement Declaration.

II. AWARD

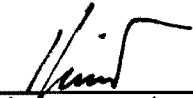
7. For the foregoing reasons,

THE TRIBUNAL DETERMINES AS FOLLOWS:

- (a) The Claim of the Claimant LILI TOUR for herself and on behalf of her three children against the Respondent THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN is dismissed for lack of jurisdiction.

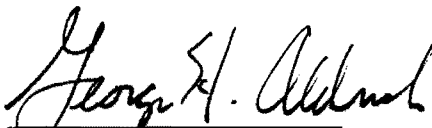
(b) Each Party shall bear its own costs of arbitration.

Dated, The Hague
1 March 1989



Robert Briner
Chairman

In the Name of God



George H. Aldrich



Seyed K. Khalilian