

CASES NOS. A4, A7 AND
A15 (I:F AND III)
FULL TRIBUNAL
DECISION NO. DEC129-A4/A7/A15(I:F and
III) -FT

THE ISLAMIC REPUBLIC OF IRAN,
Claimant,

and

THE UNITED STATES OF AMERICA,
Respondent.

IRAN-UNITED STATES CLAIMS TRIBUNAL	دیوان دآوری دعاوی ایران - ایالات متحدہ
FILED	ثبت شد
DATE	23 JUN 1997
	تاریخ ۱۳۷۶ / ۴ / ۲

DECISION

I. PROCEDURAL BACKGROUND

1. On 15 January and 25 October 1982, the Islamic Republic of Iran ("Iran") presented Statements of Claim in these Cases alleging that the United States had breached its obligations under the Algiers Declarations by failing to grant Iran custody of its diplomatic and consular properties in the United States.

2. By Order of 6 June 1991, the Tribunal joined Cases Nos. A4, A7, and A15 (I:F and III) for further proceedings and determination.

3. By joint submission of 4 October 1994, the Parties informed the Tribunal that they had entered into settlement negotiations and requested that the Tribunal postpone sine die the Hearing in these Cases, which was scheduled for 15-17 November 1994. By Order of 11 October 1994, the Tribunal postponed the Hearing until further notice, noting that, pursuant to the Parties' joint submission, "[i]f negotiations do not result in a full and final settlement, either party, without the consent of the other party, may request that the Tribunal fix a new date for the hearing."

4. On 6 May 1996, Iran submitted a "Request to Issue an Order in Conservation of Iran's Rights As Well As Effectiveness of the Algiers Declarations and the Tribunal's Jurisdiction and Authority" (the "Request"). Iran claims that the United States has improperly rented the former Iranian Embassy building in Washington, D.C., to the governments of Romania and Turkey.

5. On 31 May 1996, the United States submitted its comments on Iran's request.

II. ARGUMENT

A. Iran's Contentions

6. Iran contends that, by leasing to third parties Iranian diplomatic and consular properties that are the subject of these Cases, the United States has breached its obligation "to refrain from any action which would result in undermining the effectiveness of the Algiers Declarations and the jurisdiction and authority of the Tribunal." Iran argues that such exercise of ownership rights over its property by the United States represents an illegitimate attempt to limit the range of options open to the Tribunal in determining the rights to that property.

7. Iran therefore requests that the Tribunal order the United States, "upon a prior requirement of full disclosure of facts, to take all necessary measures, as the Tribunal deems appropriate, including but not limited to the termination of the unauthorized executed leases, so that Iran's rights, the full effectiveness of the Algiers Declarations and the Tribunal's jurisdiction and authority may be conserved."

B. The United States Contentions

8. The United States denies that the leases of Iran's official property in Washington, D.C., either prejudice the ability of the Tribunal to decide these Cases or affect the status of those properties. The United States asserts that the United States Government — with Iran's full knowledge and the United States full disclosure before the Tribunal — has leased Iran's diplomatic and consular properties at various periods since 1983 in order to prevent their falling into an irreversible state of disrepair.

9. The United States points out that, since the Tribunal's Order of 11 October 1994 postponing the Hearing in these Cases, there has been no change in United States policy or the legal

status of the properties in question to justify any measures by the Tribunal. The United States claims to have preserved the status quo with respect to those properties.

III. REASONS FOR DECISION

10. The fundamental issue raised by Iran's Request is whether the United States should be ordered to terminate the leases of Iran's official property in Washington, D.C. The final determination of the rights to that property will be made in due course, either by the Parties themselves in the settlement process or by the Tribunal if the Parties fail to reach a settlement. Though its Request is not so labeled, Iran is seeking interim relief. Under Tribunal precedent, "interim relief can be granted only if it is necessary to protect a party from irreparable harm or to avoid prejudice to the jurisdiction of the Tribunal." Islamic Republic of Iran and United States of America, Decision No. DEC 116-A15 (IV) & A24-FT, para. 20 (18 May 1993). See also Islamic Republic of Iran and United States of America, Decision No. DEC 85-B1-FT, para. 10 (18 May 1989), reprinted in 22 Iran-U.S. C.T.R. 105, 108.

11. In its Request, Iran has not expressly claimed that it risks suffering irreparable harm, and there is nothing in the record to suggest that such harm will result from the United States lease of Iran's property to the governments of third countries. The Tribunal will remain in a position, if the Parties do not settle these Cases, to decide whether the United States breached its obligations under the Algiers Declarations and, if so, to compensate Iran for any damages by awarding monetary relief. The Tribunal previously has held that "injury that can be made whole by monetary relief does not constitute irreparable harm." Islamic Republic of Iran (Cases Nos. 15 (IV) & A24), supra, para. 21 (citations omitted).

12. Moreover, the Tribunal's jurisdiction to determine these claims will not be prejudiced if the present Request is not granted. The fact that the United States has leased the Iranian property in question to third parties does not affect the Tribunal's ability to decide these Cases should the Parties fail to settle them; in particular, it does not affect the Tribunal's ability to determine the Parties' rights with respect to that property.

13. In short, the Tribunal finds that the present circumstances do not warrant any interim measures of protection. Having reached this conclusion, the Tribunal points out, first, that it need not consider at this stage other issues raised by the Parties in connection with the Request and, second, that nothing prevents Iran from later making either a more specific request or a fresh request based on new facts. See Order of 18 January 1984 in Islamic Republic of Iran and United States of America, Cases Nos. A4 and A15, Chamber Two, reprinted in 5 Iran-U.S. C.T.R. 112, 114.

14. In view of the Parties' joint submission referred to supra, at para. 3, the Tribunal expresses the hope that the Parties' negotiations will result in a full and final settlement of these Cases. In this connection, the Tribunal also expresses the hope that the Parties will keep each other fully informed of all the facts relevant to these Cases.

15. For the foregoing reasons,

THE TRIBUNAL DECIDES

that Iran's "Request to Issue an Order in Conservation of Iran's Rights As Well As Effectiveness of the Algiers Declarations and the Tribunal's Jurisdiction and Authority" is denied.

Dated, The Hague
23 June 1997

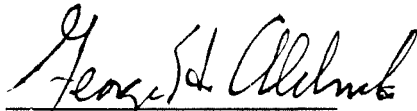

Krzysztof Skubiszewski
President


Bengt Broms

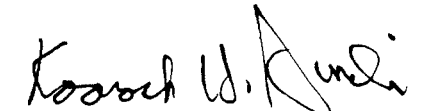

Gaetano Arangio-Ruiz

In the Name of God


Assadollah Noori
Concurring Opinion

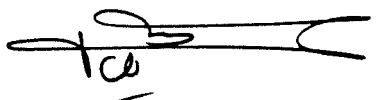

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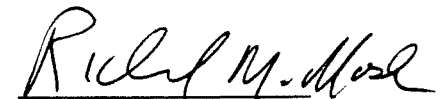
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Koorosh H. Ameli
Concurring Opinion

In the Name of God


Charles T. Duncan


Mohsen Aghahosseini
Concurring Opinion


Richard M. Mosk

Dated, The Hague
23 June 1997

Krzysztof Skubiszewski
President

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Bengt Broms

Gaetano Arangio-Ruiz

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