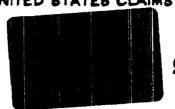
دیوان داوری دعاری ایران - ایالات مخلا 7 4



ORIGINAL-DOCUMENTS IN SAFE

Cas	e No	221	Date	of filing:	16-	6-1992
# #	<u>AWARD</u>	- Type of Award pages :			pages	in Farsi
**	DECISIO	N - Date of Decision	ion <u>16 Tune</u> in English		pages	in Farsi
**	CONCURR	ING OPINION of				
**	SEPARAT	- Date pages :	in English		pages	in Farsi
		- Date pages :			pages	in Farsi
	DISSENT	ING OPINION of Pages :			pages	in Farsi
**	OTHER;	Nature of document	t:			•
		- Datepages :			pages	in Farsi

DECISION NO.DEC 105-221-1

دیوان داوری دعاوی ایران - ایالات متحده

CASE NO. 221 CHAMBER ONE

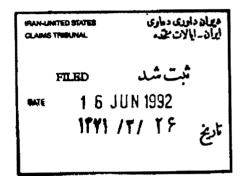


MOHSEN ASGARI NAZARI,

Claimant,

and
THE GOVERNMENT OF THE ISLAMIC
REPUBLIC OF IRAN,

Respondent.



DECISION

- 1. On 14 October 1991, the Claimant filed a submission entitled "Claimant's Hearing Memorial, Request for Interlocutory Award or an Extension of Time to Submit Further Evidence and for Production of Documents". In that submission, the Claimant requested permission to amend his Claim by adding Information Systems of Iran ("ISIRAN"), Sherkat Khadamat Beynolmelali Mahat ("SKBM"), Ministry of Defense, the Iranian Ground Forces, Islamic Revolutionary Committee, Bank Rahni Iran and Vam Maskan Pasargad as new respondents. The Claimant argued that the Respondent would not be prejudiced by such amendment. On 28 January 1992, the Claimant filed a letter in which he renewed his request.
- 2. On 5 March 1992, the Respondent filed its "Response to Claimant's Request to Add New Respondents". In that submission, the Respondent requested the Tribunal to reject the Claimant's request on two grounds. First, it stated that the Claimant's request to add seven new Respondents is tantamount to the filing of new claims after the jurisdictional deadline of 19 January 1982 stipulated under Article III, paragraph 4 of the Claims Settlement Declaration. Second, it contended that such amendment would be impermissible in light of the Tribunal's Rules. On 26 May 1992, the Respondent filed a submission entitled

"Respondent's Hearing Memorial and Written Evidence" in which it renewed its objection.

3. Turning now to examine the request, the Tribunal notes that the requirements concerning an amendment to a claim are set forth in Article 20 of the Tribunal Rules. The Article provides as follows:

During the course of the arbitral proceedings either party may amend or supplement his claim or defence unless the arbitral tribunal considers it inappropriate to allow such amendment having regard to the delay in making it or prejudice to the other party or any other circumstances. However, a claim may not be amended in such a manner that it falls outside the jurisdiction of the arbitral tribunal.

The Tribunal notes that in his Statement of Claim, filed on 11 January 1982, the Claimant submitted five different claims solely against the Government of the Islamic Republic of Iran First, the Claimant seeks compensation for Iran's alleged refusal to repay the Claimant the funds he advanced on behalf of ISIRAN, a corporation allegedly owned, controlled and operated by Iran, to SKBM, an entity in which the Claimant allegedly held a 34% interest, pursuant to a service contract between the two entities. Second, the Claimant compensation for the expropriation of his 34% interests in SKBM, allegedly taken over by Iran. Third, the Claimant seeks compensation for the alleged nationalization of his interest in Vam Maskan Pasargad, a savings and home loan corporation, and of the proceeds of his purchase of shares in the said company, which were deposited in the Bank Rahni Iran. Fourth, he sought compensation for the alleged taking of his apartment which claim he, however, withdrew in his Hearing Memorial of 14 October 1991. Finally, the Claimant alleges that in view of expropriation of SKBM he is entitled to recovery from Iran of his salary and relocation benefits, allegedly due under a contract with SKBM.

- The Tribunal now applies the requirements of Article 20 to the Claimant's request. The Tribunal notes that the Claimant did not request this amendment until ten years after filing his Statement of Claim, and after the Tribunal had already issued on 15 January 1991 the Interlocutory Award No. ITL 79-221-1 on the preliminary issue of the Claimant's dominant and effective nationality. Thus, the proposed respondents did not have an opportunity to participate in the proceedings and/or submit evidence concerning the issue of the Claimant's dominant and effective nationality during that preliminary stage of the The Claimant offers no justification for this proceedings. Therefore, the Tribunal considers it inappropriate to allow the proposed amendment having regard to the delay in making it and to the fact that it would prejudice these proposed respondents, by joining them as parties to a case already partly decided in their absence.
- 6. Having found the Claimant's proposed amendment impermissible in view of the delay and prejudice to the proposed respondents, the Tribunal need not consider the question whether the Claimant's request is tantamount to the filing of a new claim. Consequently, the Claimant's request must be dismissed.

For the foregoing reasons,

THE TRIBUNAL DECIDES AS FOLLOWS:

The Claimant's request to add new Respondents is hereby denied.

Dated, The Hague 16 June 1992

Bengt Broms

Chairman Chamber One

In the Name of God

Assadollah Noori

Howard M. Holtzmann