

383-70

ORIGINAL DOCUMENTS IN SAFECase No. 383Date of filing: 16 May '90

** AWARD - Type of Award Final
- Date of Award 16 May '90
6 pages in English 7 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

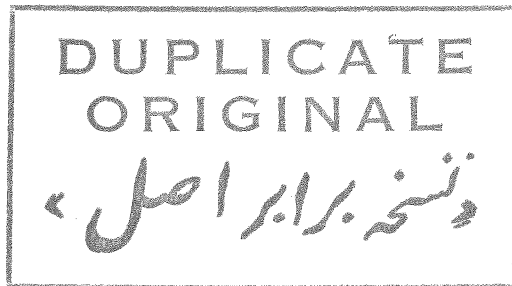
** DISSENTING OPINION of _____
- Date _____
_____ pages in English _____ pages in Farsi

** OTHER; Nature of document: _____

- Date _____
_____ pages in English _____ pages in Farsi

IRAN-UNITED STATES CLAIMS TRIBUNAL

دیوان داوری دعاوی ایران - ایالات متحدہ



CASE NO. 383

CHAMBER TWO

AWARD NO. 477-383-2

RAYMOND ABBOUD,
as legal guardian of
CHRISLINE ARIANNE ABBOUD,
Claimant,

and

THE ISLAMIC REPUBLIC OF IRAN,
Respondent.

IRAN-UNITED STATES CLAIMS TRIBUNAL	دیوان داوری دعاوی ایران - ایالات متحدہ
FILED	ثبت شد
DATE	16 MAY 1990
	تاریخ ۱۳۶۹ / ۲ / ۲۶

AWARD

I. THE PROCEEDINGS

1. On 18 January 1982, RAYMOND ABBOUD as legal guardian of his minor daughter CHRISLINE ARIANNE ABBOUD ("the Claimant") filed a Claim against THE ISLAMIC REPUBLIC OF IRAN ("the Respondent") seeking compensation amounting to a total of U.S.\$3,790,277 plus interest for the alleged expropriation of shareholding interests in a number of Iranian enterprises.¹ According to the Claimant, her Claim arose on the Iranian date of 17/7/1358 (corresponding to 9 October 1979). The Claimant contends that she is a United States national.

2. After the Full Tribunal's decision in The Islamic Republic of Iran and The United States of America, Decision No. DEC 32-A18-FT (16 Apr. 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.

II. FACTS AND CONTENTIONS

3. Raymond Abboud, the father and legal guardian of the Claimant, has filed an Affidavit, and the Tribunal

¹ The Claim was originally assigned to Chamber Three. By Presidential Memorandum of 17 June 1988, it was transferred to Chamber Two.

notes in particular the following points contained therein. Raymond Abboud was born in 1938 to Lebanese parents in Tehran and obtained Iranian nationality in addition to his Lebanese nationality as his mother had been born in Iran. In 1969, he married Ms. Iran Khosrovshahi, who had dual American and Iranian nationality. The Claimant, Chrisline Abboud, was born on 31 October 1971 in Tehran, Iran. As evidenced by her Certificate of Birth, she was registered as a United States citizen with the United States Consulate in Tehran. She was an American citizen by virtue of her mother's American citizenship. Raymond Abboud also states that "under local law she [Chrisline Abboud] also has Iranian nationality."

4. In September 1973, Chrisline's mother divorced her husband and returned to the United States. Chrisline Abboud remained in Iran with her father, who had obtained custody of her.

5. In May 1975, Raymond Abboud married an American national. According to Mr. Abboud in his Affidavit, in 1976 the family decided to move to Cannes, France, from where Raymond Abboud continued to look after his business interests in Iran. Chrisline Abboud was nearly five years old at the time she moved to France.

6. Chrisline attended a French elementary school in Cannes, but she continued to speak English at home. She was under the care of a British nurse. She obtained her first United States passport in Nice, France, on 22 January 1979.

7. During her stay in France, Chrisline travelled to the United States three times. The stamps in Chrisline's passports, copies of which have been submitted as evidence, indicate that on 14 June 1977 and 28 March 1978 Chrisline entered the United States using her Iranian passport. These visits allegedly lasted three and two months respectively. On 9 August 1980, Chrisline travelled again to the United States, this time using her United States passport. She allegedly then stayed two months in the United States.

8. Raymond Abboud also states in his Affidavit that it was never the intention of the family to reside permanently in France, and that, intending to settle permanently in the United States, he had in 1977 purchased an apartment in New York. He then states that when Chrisline reached the age at which she was to go to high school the family decided to carry out their plans to go to the United States. They moved to New York in September 1982.

9. After arriving in the United States, Chrisline attended the Lycée Français in New York. She apparently continues to live in New York.

III. REASONS FOR THE AWARD

10. Pursuant to the Full Tribunal's decision in Case No. A18 (para. 2, supra), the Tribunal must, in relation to Chrisline Abboud, first determine on the basis of the evidence whether she was, during the relevant period from the time her Claim arose until the date of the Claims Settlement Declaration, 19 January 1981, a national of the United States or of Iran, or of both countries.

11. The Tribunal notes that there is no dispute that Chrisline Abboud acquired Iranian nationality under Iranian law by virtue of her father being an Iranian national. There is no evidence before the Tribunal that the necessary legal steps were taken on her behalf to have her Iranian nationality revoked. For the foregoing reasons, the Tribunal determines that Chrisline Abboud was, during the relevant period under consideration, an Iranian national.

12. Although the Respondent has raised certain queries about the documents submitted on behalf of the Claimant to support her U.S. nationality, the Tribunal finds that the birth certificate and other supporting documents submitted

are sufficient evidence of Chrisline Abboud's U.S. nationality. The Tribunal concludes that the Claimant was also a national of the United States during the relevant period. The Claimant thus holds nationality of both Iran and the United States.

13. In order to examine whether the Claim presented on behalf of the Claimant is a Claim of a U.S. national as defined by Article VII, paragraph 1, of the Claims Settlement Declaration, the Tribunal must, in accordance with the various criteria set forth in the Full Tribunal's decision in Case No. A18 (para. 2, supra), determine whether the dominant and effective nationality of the Claimant was that of the United States during the relevant period between the time it is alleged that her Claim arose and 19 January 1981, which is the date of the Claims Settlement Declaration. In its decision in Case No. A18 the Tribunal noted that the determination of a claimant's dominant and effective nationality requires consideration of "all relevant factors, including habitual residence, center of interests, family ties, participation in public life and other evidence of attachment." 5 Iran-U.S. C.T.R. at 265.

14. The record shows that Chrisline was born in Tehran and spent the first five years of her life in Iran. She then moved to Cannes in France. She resided in France until September 1982. At the time her Claim is alleged to have arisen in early October 1979, the Claimant was nearly eight years old and had spent her entire life, except for brief visits, outside the United States, living with her Iranian father either in Iran or in France. She continued to do so throughout the relevant period. The issue for the Tribunal to consider is whether her alleged exposure to American culture during her residence abroad and in particular the years preceding and during the relevant period of time were sufficient to warrant the conclusion that her United States nationality was dominant even though she never resided in the United States until more than one and a half year after the date of the Claims Settlement Declaration.

15. The evidence provided on behalf of the Claimant shows that her contacts with the United States while she lived in France, with her Lebanese-Iranian father, were limited. While at home the Claimant spoke English, outside the home the Claimant apparently became integrated in French society, attending a local primary school and learning to speak French. The Claimant visited the United States only three times during her five years in France, spending, at most, a total of seven months in that country. The Tribunal determines that the evidence submitted is insufficient to support a finding that the Claimant's dominant and effective nationality during the relevant period was that of the United States.


IV. AWARD

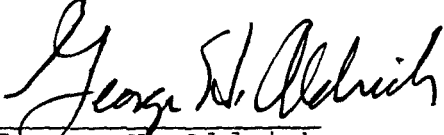
16. In view of the foregoing,

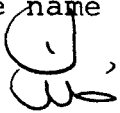
THE TRIBUNAL AWARDS AS FOLLOWS:

- a) The Claim presented on behalf of Chrisline Abboud is dismissed for lack of jurisdiction.
- b) Each Party shall bear its own costs of arbitration.

Dated, The Hague
16 May 1990


Robert Briner
Chairman
Chamber Two


George H. Aldrich

In the name of God

Seyed K. Khalilian