

462-86

ORIGINAL DOCUMENTS IN SAFE

Case No. 462

Date of filing: 9-2-91

** AWARD - Type of Award _____
- Date of Award _____
_____ pages in English _____ 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 Mr Aldrich
- Date 4 Feb 91
4 pages in English 5 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

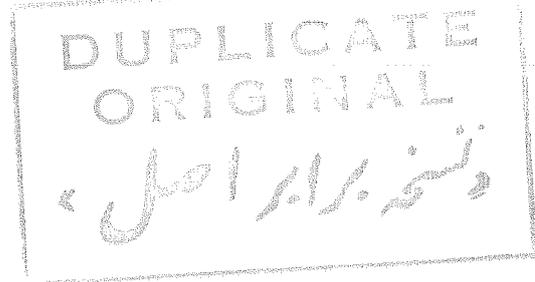
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CASES NOS. 461, 462, 463,
464 & 465

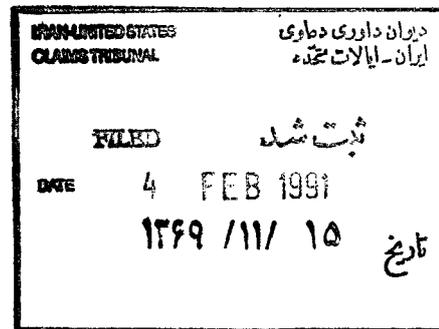
CHAMBER TWO

AWARD NO. 505-461,462,463,464&465-2

Case No. 461
ARDAVAN PETER SAMRAD,
Claimant,
and
THE GOVERNMENT OF THE ISLAMIC
REPUBLIC OF IRAN,
Respondent.



Case No. 462
PARVIN MARIAM SAMRAD,
on behalf of, and as Guardian of
her minor daughter,
ROYA SAMRAD,
Claimant,
and
THE GOVERNMENT OF THE ISLAMIC
REPUBLIC OF IRAN,
Respondent.



Case No. 463
PARVIN MARIAM SAMRAD on behalf
of, and as Guardian of her minor
daughter, LEILA SAMRAD,
Claimant,
and
THE GOVERNMENT OF THE ISLAMIC
REPUBLIC OF IRAN,
Respondent.

Case No. 464
GITTY DIANA SAMRAD,
Claimant,
and
THE GOVERNMENT OF THE ISLAMIC
REPUBLIC OF IRAN,
Respondent.

Case No. 465
PARVIN MARIAM SAMRAD,
Claimant,
and
THE GOVERNMENT OF THE ISLAMIC
REPUBLIC OF IRAN,
Respondent.

SEPARATE OPINION OF GEORGE H. ALDRICH

The question of the dominant and effective nationality of the Claimants during the relevant period is, in my view, a close question in each of these Cases. In the end, I concur in this Award with respect to Cases numbered 462, 463, and 465, and I dissent with respect to Cases 461 and 464, those brought by the two elder children of the Samrad family.

The Award in these Cases demonstrates that, when a family has its economic interests centered in Iran, as the Samrad family did, the intent of the dual nationals upon coming to the United States is relevant to the question of their dominant and effective nationality, and efforts should be made to prove such intent. Such efforts were not made in these Cases. Parvin Mariam Samrad, the Claimant in Case No. 465, does allege that she settled in the United States in August 1977 in order to raise and educate her two youngest children in the United States, but that assertion is ambiguous with respect to the period subsequent to such education. In addition, her failure to establish how much of the period from 1977 to 1979 she actually spent in the United States, combined with the fact that her husband evidently remained in Iran and Europe during most of that time, undermines her allegation.

It is clear that the lives and occupations of both Ardavan Peter and Gitty Diana Samrad have been centered in the United States in the years since 1979. The dominance now of their American nationality cannot be doubted. Despite the fact that events following the relevant period are relevant to our determination of dominant nationality during that period, Reza Said Malek and The Government of the Islamic Republic of Iran, Interlocutory Award No. ITL 68-193-3, para. 14 (23 June 1988), reprinted in 19 Iran-U.S. C.T.R. 48, 51, I recognize that it is a close question whether their American nationality had become dominant at the date they allege their claims arose, May 1979. Their claims are weakened by the fact that neither of them even

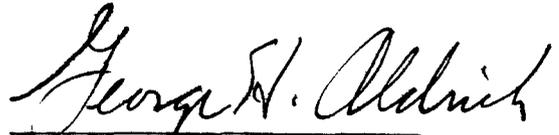
asserts, let alone proves, that when he or she arrived in the United States to enter university it was with an intention of remaining permanently in the United States, rather than of returning to Iran after university to pursue the family's business interests, in which each had already been given a substantial share.

Nevertheless, I believe that Ardavan Peter and Gitty Diana Samrad have submitted enough evidence to justify the conclusion that their dominant and effective nationality during the relevant period was that of the United States. They were born in the United States and thus have been dual nationals all their lives. The evidence supports their assertions that during the early years of their lives, which were spent with their parents in Iran, they were not fully integrated into Iranian society, as they spoke English at home and attended, for the most part, the Tehran American School. Their secondary education was obtained at international schools in Switzerland, although they returned during those years to the family in Iran for their holidays. Their university education occurred entirely in the United States, for Ardavan Peter beginning in 1976 and for Gitty Diana beginning in 1977.

In weighing this evidence, I differ from my colleagues for two reasons: first, the years of secondary education that Ardavan Peter and Gitty Diana spent in Switzerland would, in my view, have attenuated their ties to Iran and Iranian culture prior to their arrival in the United States; second, I believe that American university life provides, almost inevitably, a deep and pervasive immersion in American culture, particularly for children such as these with a strong prior basis in American language and culture. I would not want to be understood as saying that any dual national student in the United States could be expected to have his American nationality become dominant simply after two or three years of residence at an American university, but I believe that, with their special backgrounds, these

two Claimants have submitted enough evidence to justify the conclusion that their dominant nationality had become that of the United States by May 1979.

Dated, The Hague
4 February 1991


George H. Aldrich