

ORIGINAL DOCUMENTS IN SAFE

271-102

Case No. 271Date of filing: 2/12/96

** AWARD - Type of Award _____
- Date of Award _____
_____ pages in English _____ pages in Farsi

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

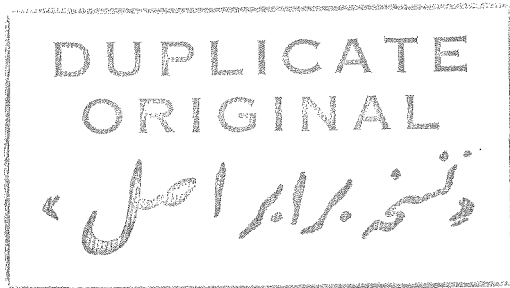
Separate
** CONCURRING OPINION of Admission
- Date 2/12/96
_____ pages in English _____ pages in Farsi

** 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



CASE NO. 271

CHAMBER THREE

AWARD NO. 573-271-3

JAHANGIR MOHTADI
and JILA MOHTADI,
Claimants,

and

THE GOVERNMENT OF THE
ISLAMIC REPUBLIC OF IRAN,
Respondent.

IRAN-UNITED STATES CLAIMS TRIBUNAL	دیوان دآوری دعاوی ایران - ایالات متحدہ
FILED	ثبت شد
DATE	2 DEC 1996
	تاریخ ۱۳۷۵ / ۹ / ۱۲

SEPARATE OPINION
OF
RICHARD C. ALLISON

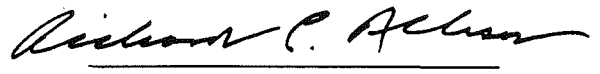
1. Although I have concurred in the Award in this Case in order to form the requisite majority, I take a somewhat different view of the issue of confiscation of the Velenjak property. I do not quarrel with the Award's conclusion that the Abolition Act constituted interference with the Claimant's rights in that property so as to be a "measure[] affecting property rights" as contemplated by Article II, paragraph 1, of the Claims Settlement Declaration. I would go farther, however, and conclude that the entirety of the Claimant's interest in the Velenjak land was effectively taken by the Act during the jurisdictional period that necessarily delimits the operative facts to be taken into consideration by the Tribunal in the cases brought before it.¹

¹ Under Article II, paragraph 1, of the Claims Settlement Declaration the Tribunal has jurisdiction over "claims and counterclaims [that] are outstanding on the date of this (continued...)"

This is so whether — as I believe — the Abolition Act itself together with its implementing measures effected the confiscation *de jure* or whether a combination of circumstances resulted in a *de facto* confiscation.

2. This conclusion is based upon (1) the Abolition Act itself, (2) the statements of policy and intent issued by the Revolutionary authorities in respect of the Act, (3) the Regulations spelling out the purposes and application of the Act, which, as the Guardian Council recognized, clearly embraced bayer lands, and (4) the practical effect of these and other measures. Moreover, it can hardly be ignored that the Revolutionary Council of the Islamic Republic of Iran, on 26 March 1980, stated in the "Implementing Act for Tehran" that the Abolition Act abolished private ownership of undeveloped land "as from the date of promulgation thereof." Since in my view the Claimant's Velenjak property was taken by the Government of Iran during the Tribunal's jurisdictional period, the Claimant should have been awarded the full value of the land.

Dated, The Hague
2 December 1996


Richard C. Allison

¹(...continued)
Agreement" [i.e., 19 January 1981]. This temporal limitation upon the claims that the Tribunal may adjudicate has, in a few instances, produced results that are to some extent anomalous. For example, in *Foremost Tehran, Inc., et al.* and *The Government of the Islamic Republic of Iran, et al.*, Award No. 220-37/231-1 (11 Apr. 1986), reprinted in 10 Iran-U.S. C.T.R. 228, the Tribunal dismissed the claimant's "creeping expropriation" claim for the reason "that the interference with the substance of Foremost's rights did not, by 19 January 1981, . . . amount to an expropriation." *Id.* at 250. In the present Case the Guardian Council, on 3 February 1981, ruled that the confiscation of bayer land was incompatible with the Constitution of the Islamic Republic of Iran, thus arguably reversing the taking of the Claimant's Velenjak property after the end of the Tribunal's jurisdictional period although the Respondent, which is in possession of the relevant records, has neglected to provide any evidence to support this notion.