
Appeals court tosses Armenian payments law

By Paul Elias

Associated Press / February 23, 2012

SAN FRANCISCO—A federal appeals court on Thursday struck down a novel and controversial California law that allowed descendants of 1.5 million Armenians who perished in Turkey nearly a century ago to file claims against life insurance companies accused of renegeing on policies.

The move came when a specially convened 11-judge panel of the 9th Circuit Court of Appeals unanimously tossed out a class action lawsuit filed against Munich Re after two of its subsidiaries refused to pay claims.

The ruling, written by Judge Susan Graber, said the California law trampled on U.S. foreign policy -- the exclusive jurisdiction of the federal government.

The California Legislature labeled the Armenian deaths as genocide, a term the Turkish government vehemently argued was wrongly applied during a time of civil unrest in the country.

The court noted the issue is so fraught with politics that President Obama studiously avoided using the word genocide during a commemorative speech in April 2010 noting the Armenian deaths.

The tortured legal saga began in 2000 when the California Legislature passed a law enabling Armenian heirs to file claims with insurance companies for policies sold around the turn of the 20th century. It gave the heirs until 2010 to file lawsuits over unpaid insurance benefits.

New York Life and the French company AXA

paid a combined \$37.5 million to settle lawsuits. But Munich Re chose to fight the litigation, invoking a rare legal argument known as dormant foreign affairs pre-emption.

The insurance giant argued the state Legislature had no business weighing in on the issue, even though the United States had no clear policy regarding the politically sensitive matter.

The 9th Circuit agreed.

"The existence of this general foreign affairs power implies that, even when the federal government has taken no action on a particular foreign policy issue, the state generally is not free to make its own foreign policy on that subject," Judge Graber wrote for the court.

It was the third time the 9th Circuit ruled on the case.

In 2009, a three-judge panel reversed a lower court's decision and tossed out the lawsuit. Then in December 2010, the same three-judge panel did an about-face, changed its ruling and upheld the lower court's decision to allow the case to go forward.

The ruling Thursday could be the final word on the matter unless the U.S. Supreme Court agrees to review the unanimous decision by the 11 appellate judges.

© Copyright 2012 Associated Press. All rights reserved. This material may not be published, broadcast, rewritten, or redistributed.

