



World Bank Administrative Tribunal

2016

Decision No. 538

**Dominique Njinkeu,
Applicant**

v.

**International Bank for Reconstruction and Development,
Respondent**

(Preliminary Objection)

**World Bank Administrative Tribunal
Office of the Executive Secretary**

**Dominique Njinkeu,
Applicant**

v.

**International Bank for Reconstruction and Development,
Respondent**

1. This judgment is rendered by the Tribunal in plenary session, with the participation of Judges Stephen M. Schwebel (President), Mónica Pinto (Vice-President), Ahmed El-Kosheri, Andrew Burgess, Abdul G. Koroma, Mahnoush H. Arsanjani, and Marielle Cohen-Branche.
2. The Application was received on 30 December 2015. The Applicant was represented by Stephen C. Schott of Schott Johnson, LLP. The Bank was represented by David R. Rivero, Director (Institutional Administration), Legal Vice Presidency.
3. The Applicant challenges the non-renewal of his contract; alleged discrimination; the Bank's alleged failure to provide the honest rationale behind the non-renewal of his contract; and the Bank's alleged failure to provide clear guidance relating to his separation options upon the expiration of his contract.
4. The Bank has raised a preliminary objection to the admissibility of this Application. This judgment addresses that preliminary objection.

FACTUAL BACKGROUND

5. The Applicant began working at the Bank in August 2009 under a two-year Term contract as a Program Coordinator, Level GH. He managed the Trade Facilitation Facility Trust Fund (TFFTF) in the Trade and Competitiveness Global Practice (GP). His salary was paid from the TFFTF. The end date of the Applicant's contract was to coincide with the end disbursement date of the TFFTF on 31 December 2013. Whenever the end date of the TFFTF was adjusted, the end date of the Applicant's contract was also adjusted, and the most recent end date was 31 July 2015.

6. On 11 May 2015, the Applicant was offered a six-month contract from 1 August 2015 to 31 January 2016. A member of the management of the GP sent an email to the Applicant on that date stating:

This is to inform you that we will request a 6 months extension of your contract starting in July 31st, 2015. We would very much appreciate [it] if you could prepare [for] us a work program for the period starting in July 31st. Please send it as soon as possible to start the process.

7. The Applicant claims that the Bank sought to move him out of the management of the TFFTF and into regular Bank operations. According to the Applicant, the Practice Manager of the trade group that manages the TFFTF informed the Applicant that he was offered the six-month contract until 31 January 2016 in order to enable him “to prepare a multi-year work program beginning on 1 February 2016.”

8. On 23 June 2015, the Practice Manager sent an email to the Applicant stating:

Further to the recent extension of your contract by six months to 31 January 2016 by this e-mail memorandum, I am providing you written notice that your term appointment will not be extended and shall end on 31 January 2016.

According to the Applicant, the Practice Manager informed him in a number of conversations between them that this notification was only a formality, and that he should focus on preparing the multi-year work program starting on 1 February 2016.

9. The Applicant claims that the Practice Manager withdrew the offer to prepare a work program during a meeting on 2 July 2015, and reiterated that the Applicant’s contract would terminate on 31 January 2016 with no possibility of extension. To determine the reason for the non-renewal decision the “Applicant approached [a colleague] (through an email of July 19, 2015) as to the reasons driving his termination particularly as reported by [the Practice Manager].” According to the information the colleague relayed to the Applicant, the Practice Manager said that “(1) that some members of the T and C management were not satisfied with his work and (2) that he had some interpersonal issues with colleagues.”

10. On 27 July 2015, the Applicant sought the intervention of the Ombuds Office to determine why his contract would not be renewed. On 11 August 2015, after discussions with “officials” of the Trade and Competitiveness GP, the Ombudsman informed the Applicant of the reasons provided by these “officials” for the non-renewal decision. According to the Applicant these were: (a) “The fact that DFID did not endorse the TFF evaluation report”; (b) “[t]he fact that [he is] very entrepreneurial, while this was seen as positive by management this might have caused problems e.g. operating as a loose cannon”; and (c) “[... the Director of Partnerships had received] some feedback which [was] not positive.”

11. The Applicant states that he met with two “Directors” in the GP on 14 August 2015, who confirmed that his contract would not be extended beyond 31 January 2016. The Applicant also states that during this meeting the “Directors” informed the Applicant that there were no performance issues underpinning the decision to terminate his employment. He was told that the TFFTF was coming to an end, and as part of strategic staffing, his position would be phased out. In addition, the Applicant was told that his skills would no longer be needed for the GP because its focus on regional integration in Africa would be curtailed due to a cut in regional funding.

12. During the 14 August 2015 meeting, the “Directors” also told the Applicant to discuss the details of his separation from the Bank with Human Resources (HR).

13. On 14 September 2015, the HR Manager told the Applicant that “starting to discuss the parameters of a Redundancy or a [Mutually Agreed Separation] could be a good start.” On 23 October 2015, the HR Manager sent an email to the Applicant, in which he stated:

As promised, I have reached out to the T&C practice [...] as I wanted to validate (i) our mutual understanding on the situation and the way forward, and more importantly (ii) the terms & conditions attached to the mutually agreed separation solution option that can be considered. [Ms. C] has confirmed the practice’s disposition for allowing a mutually agreed separation (MAS, with 100% severance) to be provided, assorted with an effective separation date that would be no later than Jan. 31, 2016. Under such conditions, this would represent a lump sum payment of circa \$110k, effective on the date of exit [...].

14. In response, the Applicant stated in an email sent on 28 October 2015: “From our earlier discussions the basis for the separation is strategic staffing, which implies redundancy although your preference, implied by your email, is to process this as a MAS; but the two options are on the table.” In the same email, the Applicant also requested that he be placed on administrative leave with a job search period beginning on 1 February 2016 in order to have sufficient time to “adjust [his] visa status.” There is no evidence in the record that the Applicant received a reply to this message.

15. On 16 November 2015, the Applicant emailed the HR Manager seeking further clarification of the separation options available to him. In his email the Applicant stressed that:

[W]hile I understand you need to properly consult, my understanding was that this issue has been discussed at length at the GP level before arriving at a decision and at your level you were rolling-out a standard separation process [...] I would have been better-off two weeks ago if I had been told a decision would be forthcoming in 2-3 weeks; this would have enabled me [to] better plan my life while delivering on my work program.

16. The HR Manager responded to him on the same day and stated:

Indeed, as you know, we are still operating in the context of the upcoming termination of your employment, for the purpose of non-renewal of your term contract, for which you have already been formally notified over the summer. This, therefore, doesn't qualify for a redundancy situation, which makes the standard 6 months job search period irrelevant to the situation, as well as any extension of employment beyond Jan. 31.

17. On 7 December 2015, a Senior HR Specialist told the Applicant that at the end of his Term appointment, he was entitled to certain “expiration payments,” resettlement benefits, and an annual leave balance of up to 480 hours which would be converted into a payment. The Senior HR Specialist also told the Applicant:

Also, you would be able to receive LHH and tax/immigration help, etc. if/as WBG is letting term expire due to strategic staffing.

As for any “flexibility” HRDCO can allow above such entitlement. (same request was covered in earlier exchanges with [the HR Manager] and [the Lead HR

Specialist]), I think it prudent we first sit down and discuss together with [a Staff Relations Officer].

18. According to the Applicant, his End of Employment Memorandum (EEM) was issued on 27 January 2016.

19. The present Application was filed on 30 December 2015. The Applicant makes the following claims: (i) the decision not to renew his Term appointment was an abuse of discretion; (ii) the Bank discriminated against him; (iii) he was not informed of the honest rationale behind the non-renewal of his appointment; and (iv) the Bank did not provide clear guidance with respect to the separation options available to him. As relief, the Applicant seeks: (i) a new two-year contract as a Lead Trade Specialist, and (ii) two years of compensation for alleged career mismanagement, “the arbitrary process in refusing contract renewal,” distress caused by inconsistent messages regarding the separation, lost income, and for alleged violations of the Staff Rules. The Applicant requests legal fees and costs in the amount of \$6,950.

20. On 22 February 2016, the Bank filed a preliminary objection to the admissibility of the Application.

SUMMARY OF THE CONTENTIONS OF THE PARTIES

The Bank's Main Contentions

21. With respect to the claim challenging the non-renewal of his contract, the Bank contends that the Applicant has stated a claim upon which relief cannot be granted because he held a Term appointment, and the Bank “has no undertaking beyond the term specified in Applicant’s appointment letter.” Moreover, the Bank argues that the following claims made by the Applicant are time-barred because they were not filed within the 120-day time limit prescribed in the Tribunal’s Statute: (i) the claim that the decision not to renew his Term appointment was an abuse of discretion; (ii) the claim that the Bank discriminated against him; and (iii) the claim that the Bank failed to explain the honest rationale underlying the non-renewal of his appointment.

22. The Bank argues that the Applicant was informed of the decision not to renew his Term appointment on 23 June 2015, which is more than 120 days before 30 December 2015, the date the Applicant filed the Application. The Bank contends in addition that the Applicant's claim of discrimination was based on the consideration that, unlike the Applicant, one of his colleagues with a similar background was offered a two-year contract. The Bank argues that since the Applicant became aware of this offer on 31 July 2015, the claim is untimely because it was filed more than 120 days after he became aware of this offer. Regarding the Applicant's claim that he was not informed of the honest rationale behind the non-renewal of his appointment, the Bank argues that this claim was also not filed in a timely manner because the events triggering the claim occurred on 11 and 14 August 2015, and, counting from the latest of those dates, he should have filed his Application by 12 December 2015, but he did not.

The Applicant's Main Contentions

23. Regarding the Bank's contention that he stated a claim upon which relief cannot be granted, the Applicant argues that the jurisdictional decisions in *McKinney*, Decision No. 187 [1998], para. 10 and *Kopliku*, Decision No. 299 [2003], para. 9, on which the Bank relies, do not establish that non-renewal decisions cannot be challenged. The Applicant also argues that the relevant date for the purposes of challenging the non-renewal of his contract is not the date on which he was told his contract would end (i.e. 23 June 2015) but rather the date on which his contract actually ended (i.e. 31 January 2016). Therefore, according to the Applicant, his claim challenging the non-renewal of his contract was filed in a timely manner because he filed the Application on 30 December 2015. The Applicant contends that he was informed of the appropriate termination procedure on 7 December 2015, and that since he filed the Application on 30 December 2015, it was filed within the 120-day period. He also argues that his claims of abuse of discretion in allowing his Term appointment to lapse, differential treatment, and the Bank's failure to state a rationale for the non-renewal of his contract are all part of "one ball of wax" and are not independent "decisions." The Applicant claims that the *dies a quo* is 7 December 2015, as that was the date when his rights were decided and announced to him. Therefore, according to the Applicant, since the Application was filed on 30 December 2015, his claims were filed in a timely manner.

THE TRIBUNAL'S ANALYSIS AND CONCLUSIONS

Whether the Applicant's claim challenging the non-renewal of his contract is a claim upon which relief can be granted

24. The Bank argues that the Applicant held a Term appointment, and the Bank “has no undertaking beyond the term specified in Applicant’s appointment letter.” According to the Bank, the Applicant has therefore not stated a claim upon which relief can be granted. The Applicant argues that the cases on which the Bank relies “do not establish a principle that non-renewal of a contract cannot be contested.”

25. In *Carter*, Decision No. 175 [1997], paras. 13, 15, and 16, the Tribunal stated:

13. No doubt, therefore, as the Tribunal has previously found, “[a] fixed-term contract is just what the expression says: it is a contract for a fixed period of time” (*Mr. X*, Decision No. 16 [1984], para. 35; *Atwood*, Decision No. 128 [1993], para. 35). As a matter of principle, consequently, the staff member whose contract has expired has no right either to the renewal or extension of his appointment or to the conversion of his fixed-term appointment to a permanent one. In *Mr. X*, the Tribunal has ruled, however, consistent with the prevailing decisions of all international tribunals, that “[t]he possibility exists ... that there may be something in the surrounding circumstances which creates a right to the conversion of a fixed-term appointment to a permanent one” (para. 38). Likewise, there may be something in the surrounding circumstances which creates a right to the renewal of a consultant appointment.

[...]

15. Even when the circumstances of the case do not warrant any right to a renewal of a fixed-term contract, the Bank’s decision not to renew the contract at the expiration of its predetermined term, however discretionary, is not absolute and may not be exercised in an arbitrary manner. According to the principle laid down in *de Merode*, “[d]iscretionary power is not absolute power.” The Bank would abuse its discretion, for instance, if it were to base its decision not to renew a fixed-term contract at its expiration, discretionary as such a decision may be, on considerations unrelated to the functioning of the institution, such as racial discrimination.

16. It follows that the Respondent’s assertion that the absence of the renewal or extension of the Applicant’s contract cannot constitute “non-observance of the contract of employment or terms of appointment” within the meaning of Article II,

paragraph 1, of the Statute of the Tribunal is mistaken. The Respondent's objection to the jurisdiction *ratione materiae* of the Tribunal has to be rejected. *See McKinney*, Decision No. 183 [1997], paras. 15-16.

26. A challenge to the non-renewal of a Term appointment, especially a challenge on the grounds of alleged discrimination, is not beyond the jurisdiction of the Tribunal solely because the appointment is for a term of years. Accordingly, the Tribunal finds that it has jurisdiction *ratione materiae* over the Applicant's challenge of the non-renewal of his Term appointment.

The Bank's decision not to renew the Applicant's Term appointment

27. The Bank argues that the Applicant's claim challenging the decision not to renew his Term appointment was not filed in a timely manner. The Bank contends that the Applicant was first informed on 23 June 2015 that his Term appointment would not be renewed. The Bank argues that accordingly, the Applicant should have filed his claim within 120 days of that date, but he did not.

28. The Applicant argues that the relevant date for his claim is not when he was notified of the non-renewal of his appointment but rather the date on which his appointment actually ended, which was 31 January 2016. The Applicant argues that since he filed his Application on 30 December 2015, his claim was filed in a timely manner.

29. Article II(2) of the Tribunal's Statute states:

No such application shall be admissible, except under exceptional circumstances as decided by the Tribunal, unless:

[...]

(ii) the application is filed within one hundred and twenty days after the latest of the following:

- (a) the occurrence of the event giving rise to the application;
- (b) receipt of notice, after the applicant has exhausted all other remedies available within the Bank Group, that the relief asked for or recommended will not be granted; or
- (c) receipt of notice that the relief asked for or recommended will be granted, if such relief shall not have been granted within thirty days after receipt of such notice.

30. The Tribunal has emphasized the importance of the time limits prescribed by Article II of its Statute. In *Agerschou*, Decision No. 114 [1992], para. 42, the Tribunal stated that the prescribed time limits are “important for a smooth functioning of both the Bank and the Tribunal.” *See also Tanner*, Decision No. 478 [2013], para. 45. The Tribunal has also observed that the “long-delayed resolution of staff claims could be seriously complicated by the absence of important witnesses or documents, and would in any event result in instability and unpredictability in the ongoing employment relationships between staff members and the Bank.” *Mitra*, Decision No. 230 [2000], para. 11.

31. Regarding the determination of the *dies a quo*, the Tribunal held in *Al-Muthaffar*, Decision No. 502 [2014], para. 40:

[W]hat is a timely manner is delimited by the time limit stipulated in the Staff Rules for the pursuit of internal remedies which, in this case, was triggered at the time at which the Bank’s decision not to extend her appointment was first notified to the Applicant. That is the *dies a quo* and it is not changed by assertion of a subsequent discovery of circumstances or allegedly false reasons given for the Bank’s decision.

32. Moreover, in *Kehyaian (No. 3)*, Decision No. 204 [1998], para. 23, the Tribunal held that an applicant

cannot [...] toll the time limit by requesting an administrative review of alleged “administrative decisions” which do not constitute separate administrative decisions but which are simply re-confirmations of the original administrative decision. (*See also Vick*, Decision No. 295 [2003], para. 31; *Peprah*, Decision No. 275 [2002], para. 36; *Malik*, Decision No. 333 [2005], para. 32.)

33. Taking these decisions into account, the *dies a quo* for the Applicant’s claim challenging the non-renewal of his contract is not the date when his contract was terminated, but rather the date on which he was first notified of the non-renewal. Any subsequent change in circumstances or confirmation of circumstances, such as when the appointment was actually terminated, does not change the date of notification as the relevant date for purposes of calculating the 120-day time limit. In the present case, the date on which the Applicant was first notified of the termination of his appointment was 23 June 2015. He should have filed his Application within 120 days of that date. Instead, he filed his Application more than two months after the expiration of the time limit.

Therefore, the Tribunal finds that his claim challenging the non-renewal of his Term appointment was not filed in a timely manner and is therefore inadmissible.

The claim that the Bank discriminated against the Applicant

34. The Bank argues that the Applicant's claim that the Bank discriminated against him was not filed in a timely manner. Specifically, the Bank contends that his discrimination claim was triggered by his management offering a two-year contract to his colleague on 31 July 2015. Since the Applicant became aware of the colleague's contract offer on that date, the Bank argues that 31 July 2015 was the date of the relevant managerial decision. Therefore, the Applicant should have filed his Application within 120 days of that date.

35. The Applicant argues that all of the issues that he has alleged, including his claim of abuse of discretion in the non-renewal of his appointment, the alleged differential treatment he suffered, and the Bank's failure to provide an honest rationale for the non-renewal decision, are "part of the 'one ball of wax' of allowing his employment to lapse. The Applicant argues that they are part and parcel of the one wrongful act. They are not independent 'decisions' that could be adjudicated without reference to the decision to allow Applicant's employment to lapse." The Applicant asserts that 7 December 2015, the date on which his "rights were finally decided and announced to him," is the relevant date for the purposes of filing the Application because "it encompasses the totality of [the] Applicant's claim of wrongful actions leading up to his separation on January 31, 2016."

36. In *L (No. 2)*, Decision No. 379 [2008], para. 22, the Tribunal held:

The Tribunal agrees with the Bank that its jurisprudence, as articulated in *O*, Decision No. 323 [2004], *Malekpour*, Decision No. 320 [2004], and *Jalali*, Decision No. 148 [1996], does not allow an applicant to "tack" numerous old and time-barred claims onto timely claims by means of a "one ball of wax" theory or by alleging a "pattern" of unfairness.

37. In *O*, para. 28, the Tribunal stated:

As noted above, the Applicant contends that her several earlier claims are not subject to the exhaustion requirement because they are parts of “one ball of wax,” starting in early 2000 and culminating in the January 2002 memorandum. The Tribunal’s jurisprudence, however, disfavors the notion that an applicant can preserve untimely claims by means of a “one ball of wax” theory. The Tribunal in *Malekpour*, Decision No. 320 [2004], para. 21, rejected what it considered to be a strategy of that applicant to link a series of untimely claims to establish jurisdiction after the fact:

The Applicant’s argument appears to be an effort to tack numerous alleged Bank acts and “decisions” since the mid-1990s onto his complaint about his 2002 OPE, by alleging that those old acts and “decisions” constituted evidence of a “pattern” of “abusive treatment and retaliation” on the part of the Bank ultimately leading to the allegedly unfair evaluation in his 2002 OPE. In *Jalali*, Decision No. 148 [1996], para. 35, the Tribunal rejected such a litigation strategy as an indirect way of avoiding the requirement of exhaustion of internal remedies.

38. Therefore, the Applicant’s attempt to use 7 December 2015 as the date that encompasses all of his claims under “one ball of wax” is unavailing. Rather, there must be a specific date related to his discrimination claim that serves as an independent *dies a quo* for that claim.

39. The Applicant describes the basis of his discrimination claim as follows:

First by not offering the same opportunity as given to [his colleague] in the shift from Trust Fund to Bank Budget at the same time; second not offering Applicant the same contract duration; and third by then withdrawing the offer to prepare a multi-year program.

The first two decisions relate to the opportunities that the Applicant’s colleague was offered, but that the Applicant was not. It appears that the Applicant’s colleague was offered a two-year contract on 31 July 2015. The Applicant was thus on notice that his colleague was being offered another contract as of that date. As for the third decision referred to by the Applicant, he has not provided evidence that he received an offer to prepare a multi-year work program. In any case, he claims that the offer was rescinded on 2 July 2015, and that date may be considered the *dies a quo* for the claim regarding the withdrawal of the offer to prepare a multi-year program. The

Applicant's claim was filed more than 120 days after 31 July 2015, the later of those dates. Therefore, the Applicant's claim was not filed in a timely manner, and is not admissible.

The claim that the Bank failed to provide an honest rationale for the non-renewal of his appointment

40. The Bank argues that the Applicant's claim that the Bank failed to provide him an honest rationale for the non-renewal of his appointment was not filed in a timely manner. The Bank contends specifically that the Applicant "takes issue with the reasons provided by Management in email exchanges on August 11, 2015, and a meeting held on August 14, 2015." The Bank argues that because 120 days from 14 August 2015 is 12 December 2015, and the Applicant filed his Application on 30 December 2015, his claim was not filed in a timely manner.

41. The Applicant argues that the claim of not being provided an honest rationale for the non-renewal decision is part of the "one ball of wax" of wrongful actions surrounding the decision to allow his appointment to lapse. The Applicant explains that 7 December 2015 should be the relevant date for the purposes of calculating the 120-day time limit because that was the date that encompassed "the totality of Applicant's claim of wrongful actions leading up to his separation on January 31, 2016." In the alternative, he argues that he "could have relied" on 27 January 2016 as the *dies a quo* because that was the date on which he received his End of Employment Memorandum (EEM).

42. The Applicant received an email from one of his managers on 11 August 2015, asking him to schedule a meeting with her so that they could "set the record straight" about the rationale for the non-renewal decision. The record shows that the Applicant met with two "Directors" of the GP on 14 August 2015. During this meeting, the "Directors" explained to the Applicant that the following rationales underpinned the non-renewal decision:

1. The TFF is coming to an end...and [the Applicant's] contract extensions were driven by the end date of the TFF.

2. As part of strategic staffing Trade and Competitiveness is consolidating its trust funds and the position of TFF coordinator will be phased out. With this consolidation the position occupied by [the Applicant] will no longer exist.
3. The cut in regional funding and the elimination of the regional integration department of the Africa Region means the GP's focus on regional integration in Africa will be significantly curtailed hence the niche where [the Applicant's] skills are needed will not be a priority for the GP.

The Applicant was told during this meeting that there were some other contributing factors, namely: (i) the United Kingdom Department for International Development not having endorsed the TFFTF evaluation and (ii) the Applicant's "entrepreneurial spirit." An Ombudsman had told the Applicant, before the 14 August meeting, that the two contributing factors above were part of the rationale for the non-renewal decision.

43. There is some evidence in the record that the Applicant sought clarification of the rationale for the non-renewal decision after the 14 August meeting. On 14 September 2015, the Applicant requested the HR Manager to ask the two Directors of the GP "what the reasons are" for the non-renewal decision. The HR Manager responded that the Applicant should reach out to the two Directors for answers. It is unclear whether the Applicant reached out to the two Directors again or whether they provided different rationales than the ones discussed in the 14 August meeting.

44. As discussed above in paragraph 20, the Applicant's argument that his claims are part of "one ball of wax" is unavailing. The Applicant's reliance on 7 December 2015 as the *dies a quo* for his claim that he was not provided an honest rationale for the non-renewal decision is also misguided. On 7 December 2015, he was sent an email by the Senior HR Specialist setting out his expiration payment, resettlement benefits, and annual leave balance. The email also stated the following: "Also, you would be able to receive LHH and tax/immigration help, etc. if/as WBG is letting term expire due to strategic staffing." The email was not clear on whether the Applicant's appointment was actually expiring due to "strategic staffing." In any case, the Directors of the GP had mentioned strategic staffing as one of the reasons for the non-renewal decision. Therefore, the 7 December 2015 email did not provide the Applicant with any new information with regard to the rationale for the non-renewal decision.

45. The Applicant has not demonstrated that his receipt of the EEM on 27 January 2016 is the *dies a quo* for his claim because he has not shown that the EEM addressed the rationale for the non-renewal of his appointment. Even if the EEM did not address the rationale for the non-renewal decision, the Applicant had already been informed of reasons for the termination of his appointment during the 14 August meeting. Therefore, it is unclear how the EEM would constitute a relevant managerial decision that would override the *dies a quo* established by the 14 August meeting. Since the Applicant did not file his claim within 120 days of 14 August 2015, his claim was not filed in a timely manner, and is therefore inadmissible.

The Bank's alleged failure to provide clear guidance to the Applicant regarding the available options for his separation

46. The remaining claim raised by the Applicant is that the Bank failed to provide clear guidance regarding his separation entitlements. The Bank does not argue that this claim is untimely. The Tribunal finds that this claim was filed within 120 days of 23 October 2015 when the Applicant received the statement from the HR Manager.

Concluding Remarks

47. The Tribunal upholds the Bank's preliminary objection with respect to the Applicant's claims that: (i) the decision not to renew his Term appointment was an abuse of discretion; (ii) the Bank discriminated against him by not treating him in the same manner as it treated a similarly situated colleague; and (iii) the Bank failed to provide the Applicant with the honest rationale for the decision to not renew his appointment.

48. The Tribunal finds the Applicant's claim with regard to the alleged failure of the Bank to provide him with clear and consistent guidelines regarding his separation options was filed in a timely manner.

DECISION

- (1) The preliminary objection filed by the Bank is upheld with respect to the three claims listed in paragraph 47 above;
- (2) The Applicant's claim regarding the Bank's alleged failure to provide clear and consistent guidelines regarding his separation options is admissible; and
- (3) All other claims are dismissed.

/S/ Stephen M. Schwebel
Stephen M. Schwebel
President

/S/Olufemi Elias
Olufemi Elias
Executive Secretary

At Washington, D.C., 4 November 2016