



**World Bank Administrative Tribunal**

**2015**

**Decision No. 508**

**Elizabeth Tweddle,  
Applicant**

**v.**

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

**(Preliminary Objection)**

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

**Elizabeth Tweddle,  
Applicant**

**v.**

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

1. This judgment is rendered by a Panel of the Tribunal, established in accordance with Article V(2) of the Tribunal's Statute and composed of Judges Stephen M. Schwebel (President), Ahmed El-Kosheri, and Marielle Cohen-Branche.
2. The Application was received on 27 August 2014. The Applicant represented herself. The Bank was represented by David R. Rivero, Chief Counsel (Institutional Administration), Legal Vice Presidency.
3. The Applicant claims that she lacked the capacity to sign the Mutually Agreed Separation Agreement (MAS) signed in 1995 and that she did so under duress. The Bank has raised a preliminary objection to the admissibility of the Application. This judgment addresses that objection.

**FACTUAL BACKGROUND**

4. The Applicant worked in the Bank from 1988 to 1996. The Applicant states that while working in the Bank she became ill with depression. She explains as follows:

[She] is a tennis player, and one day back in 1992 while playing a match she was about to hit a forehand, she could not bend her knees or move, and started with mobility problems due to stress, and continued with those problems through 1996.

[She] became ill with depression in 1995 due to the stress level and harassment incurred by her supervisors, administrative secretary and manager at the Operations Evaluation Division . . . and she underwent treatments with a psychiatrist.

5. The Applicant adds that her illness was documented by her psychiatrist on 26 April 1995 and by her physician on 20 June 1995. The Applicant was granted sick leave, annual leave and three months of short-term disability.

6. On 20 December 1995, the Applicant signed an MAS agreeing to leave the service of the Bank effective 31 July 1996. The MAS contained a number of terms including some financial incentives for the Applicant. For example, the MAS stated that from 1 January 1996 through 31 July 1996, she would be on “Special Leave” during which she would continue to receive her salary but would not be in “work status.”

7. The MAS included a waiver provision stating that the Applicant would “fully and finally settle and release all claims [she] might otherwise have against the Bank Group arising out of circumstances occurring or decisions taken on or before the date of [her] acceptance.”

8. On 27 August 2014, almost 20 years after signing the MAS, the Applicant filed this Application challenging the validity of the MAS. She claims that because of her depression she was in “no condition to sign” the MAS and that the Bank was “wrong in pressuring her to sign” the MAS. As remedies, she seeks, among others, payment of regular salary or pension, compensation and costs.

9. On 6 October 2014 the Bank filed a preliminary objection stating that the Application is inadmissible.

## PRELIMINARY OBJECTION

### *Summary of the Bank’s contentions*

10. The Bank contends that the Tribunal should sustain the preliminary objection and dismiss the Application on jurisdictional grounds, for the following reasons.

11. First, the Bank argues that the Applicant signed an MAS under which she fully and finally settled all claims against the Bank. The Applicant fails to show that anybody coerced her into signing and executing the MAS. The Applicant had the opportunity to think about her options and understand the consequences of signing the MAS. The Bank states that the Applicant refers to a doctor's note to show her alleged incapacity to sign the MAS but that note does not provide a diagnosis in support of her alleged incapacity. In the Bank's view this note or any other note provided by the Applicant does not indicate that the Applicant was incapacitated to take action or understand the consequences of her actions. In sum, the Bank contends that the MAS serves as a full and final settlement and release of her claims, and that there is no convincing evidence to show that the MAS is invalid based on duress or incapacity.

12. Second, the Bank contends that even assuming that duress or incapacity were present in the Applicant's case, the Application is still outside the 120-day filing deadline under Article II, paragraph 2(ii) of the Tribunal's Statute. The Bank explains that the Applicant signed the MAS on 20 December 1995, which is nearly 20 years ago. The Bank states that the Applicant provides no reasonable justification for waiting almost 20 years to raise her claims.

13. The Bank notes that Article II, paragraph 2 of the Tribunal's Statute carves out an exception to the timeliness requirement of applications for persons who can demonstrate "exceptional circumstances." The Bank adds that the Applicant argues that she has encountered what she calls "extraordinary circumstances" as a consequence of enduring "three life events that interrupted her life": her "mom's sickness and her passing away"; her "dad's cancer treatments"; and her "lack of money to hire an attorney."

14. The Bank states that as unfortunate as these circumstances are, in the context of this Application they are not exceptional circumstances for the purposes of the Tribunal's Statute and jurisprudence. In the Bank's view, 20 years is a lengthy period of time to wait to submit an application to the Tribunal, even under the Applicant's circumstances. For the Bank, a

20-year delay would substantially hamper the ability of the Bank to properly defend itself against the claims. It would open the floodgates for similar untimely claims.

15. Finally, the Bank argues that the Applicant has not exhausted internal remedies under Article II of the Tribunal's Statute.

*Summary of the Applicant's contentions*

16. The Applicant states that the MAS is invalid because she was not in a capacity to sign the MAS. The Applicant explains that:

[The Applicant] should have never been forced to sign any document since her Psychiatrist as well as her Physician sent a note to the World Bank Medical Officer, [Dr. C], and [Dr. C] sent a Memorandum to [the Applicant's] former division chief explaining why she was in no condition to sign any legal document on the grounds of her ill-health (depression).

17. The Applicant adds that she did not agree with anything in the MAS, stating:

The MAS is an important document when you have your right mind, but [the Applicant] did not have her right mind, as stated by her doctors, [Dr. K] (Psychiatrist) Certification of Sick Leave dated June 30, 1995, [Dr. G] Sick Leave Certification dated June 20, 1995, [Dr. C], World Bank Medical Officer Confidential Memorandum dated July 3, 1995 and [her] application for Disability dated September 22, 1995. [The Applicant] only acknowledged receipt of her MAS Agreement, and did not agree with anything.

18. As for duress or pressure, the Applicant states the following circumstances:

[The Applicant] acknowledged receipt of the MAS agreement, and signed her name on a bench outside the IMF since [Mr. V] [a Senior Human Resources Officer of the Bank] did not have time to meet with her. [Mr. V] claimed that he was in between meetings, and that he only had a couple of minutes to hand her the MAS agreement, and that [the Applicant] had to acknowledge receipt of it, so she did it, and left the bench. [Mr. V] did not even use an office to meet with [the Applicant]. [Mr. V] told [the Applicant] that in order for her to collect her money she had to initial this document, otherwise everything was going to be marked as pending. [The Applicant] also attempted to talk to

someone in the Mediation Office, but the staff member who talked to her said that due to the Statute of Limitations, she could not do anything for her.

19. The Applicant argues that she is filing this Application on 27 August 2014 because she had three events that interrupted her life:

[The Applicant's] mom's sickness and her passing away;  
[The Applicant's] dad's cancer treatments; and  
[The Applicant's] lack of money to hire an attorney.

20. The Applicant contends that she is seeking substantive justice, and that no justice would be served if her Application is dismissed.

#### THE TRIBUNAL'S ANALYSIS AND CONCLUSIONS

21. An MAS is a matter of contract between the Bank and a staff member. The Tribunal in the past has accepted the validity of, and given effect to, MAS agreements between the Bank and staff members including the provision on the release of claims against the Bank. In the first of these cases, *Mr. Y*, Decision No. 25 [1985], para. 26, the Tribunal explained the rationale for giving effect to such release provisions as follows:

In an enterprise employing as many staff members as does the World Bank Group, it is inevitable that there will be claims of improper treatment, as witness the appeals to the Appeals Committee and applications to this Tribunal. It would unduly interfere with the constructive and efficient resolution of these claims if the Bank could not negotiate – in exchange for concessions on its part – for a return promise from the staff member not to press his or her claim further. If such an agreed settlement were not binding upon the affected staff member, there would be little incentive for the Bank to enter into compromise arrangements, and there might instead be an inducement to be unyielding and to defend each claim through the process of administrative and judicial review. It is therefore in the interest not only of the Bank but also of the staff that effect should be given to such settlements.

22. At paragraph 32 of the same judgment, the Tribunal also stated that “no release or settlement of claims should be given effect if concluded under duress.” Nor would the

Tribunal give effect to such MAS agreements if the staff member in question had lacked the capacity to sign the MAS.

23. A staff member can file an application to set aside the MAS on the ground of lack of capacity or duress. But such applications must comply with the requirements of the Tribunal's Statute. Article II(2)(ii) of the Statute states that an application will be inadmissible, save in exceptional circumstances, if it is not filed within 120 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 ... .

24. The undisputed fact here is that the Applicant signed the MAS some 20 years ago on 20 December 1995. Now she claims that she lacked the capacity to sign the MAS or that she signed it under duress. Here "the event giving rise to the application" – namely the alleged lack of capacity or duress – occurred in 1995. The Applicant filed the Application in 2014. She is late not by months, not by a few years but by almost 20 years.

25. The Tribunal has consistently emphasized that the deadline imposed by the Statute for filing an application must be followed. The Tribunal has held that "the resolution of staff claims brought many years after the operative events 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." *Malekpour*, Decision No. 320 [2004], para. 21 (quoting *Mitra*, Decision No. 230 [2000], para. 11).

26. Under Article II(2), a failure to file an application in a timely manner can be excused if an applicant demonstrates "exceptional circumstance." In *Nyambal (No. 2)*, Decision No. 395 [2009], the Tribunal stated in para. 30 that:

The jurisprudence of the Tribunal is well-established regarding the treatment of exceptional circumstances. In all such cases the Tribunal has followed a strict approach so as to prevent the undermining of statutory limitations. Exceptional circumstances cannot be based on allegations of a general kind but require reliable and pertinent “contemporaneous proof” (*Mahmoudi (No. 3)*, Decision No. 236 [2000], para. 27).

27. The Applicant’s plea for exceptional circumstances is not clear. She states that she is filing the Application in 2014 because she had three events that interrupted her life: “mom’s sickness and her passing away”; “dad’s cancer treatments”; and “lack of money to hire an attorney.”

28. The Tribunal understands that the Applicant had difficulties in life and is sympathetic to her circumstances. But there is nothing in the record to suggest that her circumstances were so exceptional as to prevent her from filing her Application for almost 20 years.

29. She states in her Application that she continued to work from 1996 to 2014 with some breaks with different companies and organizations. In fact, she came back to work in the Bank. She adds that she “came back to work as a Bilingual Consultant for the World Bank, and worked in different departments and units from Feb. 2004-2005, and as a Bilingual Temporary Assistant from October 2010-January 2014.” The Applicant has not explained why she was capable of working during the intervening 20 years, but not capable of coming to the Tribunal. The Applicant refers to the fact that she lacked any money to hire an attorney. The Tribunal rejected a similar argument in *Yousufzi*, Decision No. 151 [1996], para. 29, where it held that:

In the case of the Applicant ... claimed insolvency and financial inability to engage an attorney in due time do not constitute exceptional circumstances under Article II of the Statute. In *Kavoukas and Parham* (Decision No. 3 [1981]) the Tribunal did not consider inability to retain counsel an exceptional circumstance which excused the Applicant who had not filed within the ninety days as required by the Statute. The Statute does not require applicants to engage attorneys to file their applications nor does it impose any charges for filing applications.



30. In sum, the Tribunal finds no exceptional circumstances that would justify the Applicant's almost 20-year delay in approaching the Tribunal.

31. In view of the foregoing, the Tribunal finds the Application inadmissible.

#### DECISION

The Application is dismissed.

/S/ Stephen M. Schwebel

Stephen M. Schwebel

President

/S/ Zakir Hafez

Zakir Hafez

Acting Executive Secretary

At Washington, D.C., 29 May 2015