

Summary of DJ v. IFC (merits), Decision No. 548 [2016]

Following an exchange of pleadings on the IFC's preliminary objection in DJ, (preliminary objection) Decision No. 536 [2016], the Tribunal held that the following issues were admissible: (i) non-renewal of the Applicant's contract; (ii) unauthorized disclosure of confidential personal information about him; (iii) harassment and discrimination on the basis of sexual orientation; (iv) retaliation; (v) failure of senior management, Human Resources, and the Office of Ethics and Business Conduct (EBC) to protect him; and (vi) unlawful manipulation of his email account after the termination of his contract. Although the Applicant's non-selection claim was inadmissible, to the extent that any matters relating to the non-selection decision were referred by the Applicant to EBC, these matters were properly before the Tribunal for review. This judgment addresses the merits of those claims.

The Tribunal found that the information improperly disclosed, namely, the Applicant's marital status and sexual orientation, was confidential personal information. Therefore, the HRVP erred in considering that such disclosure was not contrary to the Staff Rules and the Principles of Staff Employment. The Tribunal held that the Applicant had not demonstrated that he suffered discrimination or harassment on the basis of his sexual orientation. However, the Tribunal concluded that the Applicant demonstrated a link between his report of alleged misconduct by his manager and her adverse action against him, namely, the absence of work assignments from her after his report. The Tribunal held that the IFC acted reasonably to protect the Applicant during the EBC investigation, and the EBC investigation was conducted in good faith and with respect for due process. Finally, the record does not show that anyone accessed the Applicant's email account after the end of his contract, and the HRVP did not have a conflict of interest when he decided that the Applicant's manager had not engaged in misconduct.

Decision: The Tribunal decided that the IFC shall pay the Applicant compensation in the amount of the salary due for 150 days' employment (the maximum number of days a Short Term Consultant (STC) is allowed to work in a fiscal year) at his most recent STC rate and legal fees and costs in the amount of \$34,821.41.