

Summary of Alrayes v IFC, Decision No. 520 [2015] (Preliminary Objection)

The Applicant challenged a number of decisions of the IFC relating to the January 2010 cancellation of his G4 visa and various legal fees he incurred as a result. The IFC raised a preliminary objection to the admissibility of the Application.

The Applicant, a Saudi Arabian national, joined the IFC in 2007, on a Term contract. He worked in the Washington, DC office, retained a G4 visa for the United States, and travelled abroad on numerous missions on behalf of the IFC. In January 2010, he left for a two week mission to the Gulf States. At the end of this mission, he attempted to board a flight at Dubai airport, to return to the United States. However he was informed by airline personnel that his G4 visa had been cancelled and that he could not travel to the United States. The IFC advised the Applicant to travel first to London, and then back to Dubai, while the visa issue was being addressed. Over the following months, as the visa issue remained unresolved, the Applicant sought the assistance of numerous colleagues at the IFC and the World Bank, stressing the difficulties he was facing in being separated from his children. In November 2010, the IFC agreed to pay the travel costs for the Applicant's family to visit him in Dubai. However the IFC refused the Applicant's request that it seek a mandamus order from a US court.

In February 2011, the Applicant signed a Short Term Assignment (STA) agreement. This was later extended for a further six months, until January 2012. Also in February 2011, the Applicant was formally notified by the U.S Government that he had been found ineligible for a G4 visa because of alleged terrorist activities. He was interviewed by the FBI in July 2011, and again in December 2012. Shortly after the second set of interviews he was told that he had received clearance. Ahead of the first interviews, the IFC had agreed to contribute up to \$25,000 towards the Applicant's legal fees. The Applicant later submitted claims for \$40,000 in legal fees.

In December 2011 the Applicant signed an MOU relating to the completion of his employment with IFC, and his status with IFC pending resolution of his visa issues. His resignation was to become effective 5 January 2013. On 8 January 2013, the Applicant was informed that IFC would not contribute more than the agreed \$25,000 towards his legal fees.

In July 2014, the Applicant finally received a visitor's visa for the United States. On returning, he sought to close any outstanding issues, including the reimbursement of legal fees. He entered

mediation in October 2014. Shortly after mediation ended in January 2015, the Applicant filed a number of claims with PRS. All were rejected as being untimely.

In his Application with the Tribunal, the Applicant: requested payment of the visa-related legal fees; requested payment of costs incurred in arranging for his children to visit him; challenged his placement on a two-year STA; challenged his lack of salary increases while in Dubai; requested various separation payments; challenged the IFC's failure to seek a writ of mandamus; and challenged the validity of the MOU entered into in December 2011.

The IFC contended that the Applicant's claims were time-barred, and that he failed to show exceptional circumstances to excuse the delays in filing. The Applicant accepted that some of his claims were filed after the applicable 120-day period, but argued that he satisfied the test for "exceptional circumstances" under the Statute.

The Tribunal considered the admissibility of the Applicant's various claims in turn. It found that his claim relating to separation payments was filed in a timely manner, and was admissible. All other claims were filed late, and could only be admissible to the extent that exceptional circumstances existed to justify the delays in filing.

Noting the confluence of factors which the Applicant encountered from January 2010 to July 2014, particularly the stresses associated with being unexpectedly separated from his children for an extended period, and observing that it had never before considered a similar situation, the Tribunal concluded that "exceptional circumstances" existed up to the point when the Applicant returned to the United States in July 2014. Taking into account the various circumstances of the case, including the mediation entered into by the parties and the effect this had on the timeframe for filing claims, the Tribunal concluded that the following were admissible: the Applicant's claim for payment of the agreed \$25,000 in legal fees; his claim for legal fees beyond this amount; his claim associated with the travel of his children to visit him; his challenge to being placed on a two-year STA; and his claim regarding the lack of salary increases while in Dubai. Conversely, the Applicant's challenge to the validity of the MOU and to the IFC's decision not to seek a writ of mandamus were both found to be inadmissible.

The Tribunal ordered the IFC to pay the Applicant's attorney's fees arising from the preliminary objections phase of the proceedings.

This summary is provided to assist in understanding the Tribunal's decision. It does not form part of the reasons for the decision. The full judgment of the Tribunal is the only authoritative document. Judgments are available at: www.worldbank.org/tribunal