

Summary of EC v. IBRD (Preliminary Objection), Decision No. 561 [2017]

At the end of her employment with the Bank as a Short Term Consultant on a G-4 visa, the Applicant submitted a request to the U.S. State Department to request a change of status from her G-4 visa to an F-1 student visa. Her request was denied by the U.S. State Department because it had not been filed within thirty days of the expiration of her appointment. Subsequently, the Applicant learned that the Bank had never registered her contract for her G-4 visa with the U.S. State Department, and this was another reason why the U.S. State Department could not endorse the Applicant's request for a change of status. The Applicant challenges the failure by the Bank to register her contract for her G-4 visa with the U.S. State Department.

The Bank filed a preliminary objection to the Applicant's claims, arguing that the specific performance that the Applicant seeks is not within the Tribunal's powers to grant and the Applicant's claims were not filed with Peer Review Services (PRS) in time. The Tribunal found that the relevant date from which time runs to file a request for review with PRS was the date when the Applicant was informed by the U.S. State Department of the Bank's failure to register her contract. The Tribunal found that any attempts at mediation in the interim, which the parties disagree about, did not toll the deadline for submitting a request for review such that the Applicant's Request for Review could be considered timely. Having found that the Applicant failed to exhaust internal remedies by filing a late Request for Review with PRS, the Tribunal did not need to consider whether the Application should also be dismissed on the ground that the specific performance sought was not within the Tribunal's power to grant.

Decision: The Tribunal found that the Applicant's claims were inadmissible.