



World Bank Administrative Tribunal

2019

Decision No. 614

**Chantal Andriamilamina (No. 2),
Applicant**

v.

**International Finance Corporation,
Respondent**

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

**Chantal Andriamilamina (No. 2),
Applicant**

v.

**International Finance Corporation,
Respondent**

1. This judgment is rendered by the Tribunal in plenary session, with the participation of Judges Mónica Pinto (President), Andrew Burgess (Vice-President), Mahnoush H. Arsanjani (Vice-President), Marielle Cohen-Branche, Janice Bellace, Seward Cooper, and Lynne Charbonneau.

2. The Application was received on 20 December 2018. The Applicant was represented by Stephen C. Schott of Schott Johnson, LLP. The International Finance Corporation (IFC) was represented by Ingo Burghardt, Chief Counsel (Institutional Administration), Legal Vice Presidency. The Applicant withdrew her request for anonymity on 12 March 2019.

3. The Applicant challenges (i) her Fiscal Year 2017 (FY17) performance evaluation; and (ii) the IFC's failure in its obligation to act fairly in the management of her career. This is the Applicant's second application before the Tribunal.

4. On 28 January 2019, the IFC filed a preliminary objection to the admissibility of the Applicant's career mismanagement claim. On 27 June 2019, the Tribunal joined the preliminary objection phase to the merits. This judgment addresses the preliminary objection and the merits.

FACTUAL BACKGROUND

5. The Applicant joined the IFC on 2 September 1997 as an Investment Officer. She was promoted to Principal Investment Officer on 1 July 2010. Throughout her employment the Applicant has worked in many sectors. In August 2012 the Applicant joined the IFC's Manufacturing, Agribusiness and Services (MAS) department as a Principal Investment Officer.

The Applicant's FY17 performance evaluation

The Applicant's FY17 Mid-Year Review

6. On 13 February 2017, the Applicant and her supervisor held an FY17 mid-year discussion. Thereafter, the Applicant submitted comments on this discussion in the ePerformance portal. Here, the Applicant summarized her work to date and noted that her “overall quantitative objectives for FY17 (2-3 transactions to be closed) have not been explicitly adjusted to reflect the fact [that] none of the above-mentioned projects is expected to convert into commitments.” She also stated:

No other non-fisheries related advanced lead or higher probability pipeline projects has been assigned to me to date, as per the agreed objective to refocus on core Agribusiness sectors. According to [a colleague], all four Agribusiness managers have kept me in mind, but have not been able to identify concrete projects as it is not easy nor fair to take away from the other business developers, leads that they have developed. I suspect that all the bad noises that had been created about my alleged poor performance in the previous evaluation cycle do not help. The bottom line is that I remain de facto tied to the fisheries sector (which MAS does not support but I feel compelled to be responsive to demand from the regions, especially Africa) and to long-haul, frontier projects with low probability of success.

The Applicant also indicated that the mid-year discussion did not cover professional development objectives or career goals, nor the question of a change in reporting line recommended following her FY16 Administrative Review.

7. The Applicant's supervisor also submitted comments summarizing the mid-year discussion. The supervisor described the Applicant's accomplishments in the Africa region, including a scoping mission the Applicant undertook to explore collaboration opportunities between the IFC, the World Bank, and West African countries, and complimented the Applicant's “well written” report.

8. In the FY17 Mid-Year Comments section, the supervisor responded to the Applicant's stated concern that her quantitative objectives for FY17 had not been adjusted by acknowledging the social, governmental, and environmental challenges present in the sectors where the Applicant

was working and indicating that therefore “[n]o investment opportunity [was] expected this fiscal year.” The supervisor further addressed the Applicant’s concerns stating:

Answering other comments from [the Applicant] made in the midyear box above (which were not brought up at the meeting):

Indeed no project had yet been assigned to [the Applicant] to process at the time of the midyear [...]. The team [has] been actively trying to accommodate [the Applicant’s] specific needs by assigning to her a mandated project. It is important to note that this is not our main business model, in which Principal Investment Officers involved in new business typically have a business development area and find their own projects. Unfortunately, no mutually acceptable business development area has been identified to date since [the Applicant] decline[d] our West Africa business development offer [in 2015]. Mandated project assignments for processing are driven primarily by business need, local team availability and client relationship continuity. Sub-sector/country knowledge also matter. Hence finding a mandated project well suited to assign to [the Applicant] for processing has taken time. We have been open to hear [the Applicant’s] own recommendations with regards to how best she can contribute [to the] MAS program, in line with MAS priorities, this is the subject on active conversations between [the Applicant] and our director.

Going forward: [the Applicant] refers to the Administrative Review recommendation that she be reassigned to a different unit. I support this recommendation and in turn proposed to our director that [the Applicant] be reassigned to a regional agribusiness team, closer to the business. Her experience and language skills point to Africa as the best option.

The Applicant’s FY17 Annual Review

9. On 20 July 2017, the Applicant and her supervisor held an annual performance discussion. Following the discussion, the Applicant and her supervisor submitted their comments in the ePerformance portal.

10. In the Year-End Comments section of her FY17 Annual Review, the Applicant provided extensive accounts of her contributions to MAS projects in several countries and explanations of the obstacles she encountered in securing project commitments.

11. In the Supervisor's Comments section of the Applicant's FY17 Annual Review, the Applicant's supervisor provided a factual account of the tasks completed by the Applicant during the fiscal year and provided two instances of qualitative feedback by indicating that two reports the Applicant completed after missions were "satisfactory." The Applicant's supervisor further noted that "[the Applicant] has not delivered any project commitments this year, in part because she was assigned to [...] only late in the fiscal year" and acknowledged that the Applicant's two major projects were put on hold due to a lack of financing opportunities, and the government in the region changing its priorities.

12. In the section marked Strengths and Areas of Improvement of the Applicant's FY17 Annual Review, the Applicant's supervisor recognized the Applicant's "[w]illingness to travel and knowledge of Africa region" as strengths and noted, under areas of development, "[The Applicant] has worked on many different topics in her IFC career. She could contribute more if she was willing to adapt to the department needs more flexibly."

13. Management concluded that the Applicant's performance was "fully satisfactory" and granted the Applicant a Salary Review Increase (SRI) rating of 3 for FY17.

The MAS Director's lack of feedback and delay in confirming the Applicant's FY17 Annual Review

14. On 21 November 2017, the MAS Director sent the Applicant an email, copying several other MAS colleagues, stating, "Someone crossed the paragraph [in the meeting minutes] where I expressed my appreciation on your work, at a time when you have transitioned to the [Health and Education] team. Regardless of whether we keep this in the minutes or not, I would like to reiterate that message of appreciation."

15. On 28 November 2017, the MAS Director sent a unit-wide email to recognize MAS staff who were promoted or received performance awards during the FY17 performance cycle.

16. On 18 December 2017, the Applicant replied to the MAS Director's email of 28 November 2017, to inquire about his ten-week delay in signing off on her performance evaluation, in his capacity as Reviewing Official of her FY17 performance evaluation. In this communication, she further indicated her distress regarding the delay and speculated that she was being singled out.

17. On 22 December 2017, in response to the Applicant's inquiries, the MAS Director stated:

I have just signed off your performance review. I am sorry that it took longer than expected. Unfortunately, I did not sign off on quite a few others on time. I am completing those now too. There was no particular reason for this delay, other than my being swamped.

18. In the Reviewing Official Approval Comments section of the Applicant's FY17 Annual Review, the MAS Director wrote, "I agree with [the Applicant's] supervisor's comments." There were no further comments in this section.

The Applicant's exclusion from a team award during the FY17 performance cycle

19. On 28 November 2017, the MAS Director sent a unit-wide email to recognize MAS staff who were promoted or received performance awards during the FY17 performance cycle. Of these recognized staff members, five staff members were given a team award for their work on the National Fisheries Developments (NFD) fisheries project, a project to which the Applicant and several others contributed. The Applicant was among those team members excluded from the NFD team award.

20. In her Annual Review, the Applicant identified her FY17 contributions to the NFD fisheries project by stating that she "continued sharing selected industry developments with project team and provided input to [Team Lead] on NFD Board Paper." The Applicant states that she "contributed to originating [the NFD fisheries project] in 2016 and supported it in the back scene facilitating collaboration with the World Bank."

21. According to the project's transaction manager, the Applicant was one of 35 people consulted on the NFD fisheries project. The NFD team award was managed by the transaction

manager based in Singapore who selected the five staff members he characterized as “the core team” – most of whom were based in Asia. The transaction manager indicated that team award funds were limited.

The Applicant’s recourse before the Administrative Review and Performance Management Review

22. On 19 February 2018, the Applicant challenged her FY17 performance evaluation and requested Administrative Review (AR). As reasons for requesting review, the Applicant stated:

I am requesting a review of my FY17 Performance Evaluation because in my view

- i) it does not fairly reflect nor appreciate a critical aspect of my work and achievements, especially my very close collaboration with the World Bank across all my key engagements and pioneering efforts to apply the Maximizing Finance for Development approach to fisheries;
- ii) the areas of strength fail to reflect these elements and other qualities that have been highlighted by the multi-rater feedback providers across the last [performance evaluation] cycle and two previous ones;
- iii) the evaluation does not properly reflect my business development milestones to try to obtain a mandate for the San Lei/ Highland Trout project in Lesotho (see multi-rater feedback); and
- iv) the Reviewing Official’s succinct comment endorsing the manager’s conclusions contradicts his public declaration of his appreciation of the work that I have done in fisheries during a Concept Review Meeting [...].

I also protest th[e] fact that I have been excluded from the 2017 Team Performance Award for the NFD fisheries transaction.

23. On 23 April 2018, the Administrative Reviewer sent an email to the MAS Director to provide the MAS Director with his findings. The Administrative Reviewer acknowledged a delay in the MAS Director’s sign-off and submission of the Applicant’s Annual Review. The Administrative Reviewer further observed that the Applicant’s supervisor conducted a fair evaluation of the Applicant’s FY17 performance. The Administrative Reviewer recommended no

changes be made to the Applicant's Annual Review. The recommendation was accepted by the MAS Director and communicated to the Applicant by email dated 26 April 2018.

24. On 25 May 2018, the Applicant challenged the MAS Director's decision to accept the AR recommendation and requested a Performance Management Review (PMR). The Applicant indicated she sought review of her FY17 performance evaluation for the following reasons:

- i) [...] While my supervisor and co-feedback provider's comments overall summarize well the tasks that I have completed per my objectives, and their final outcomes, they remain silent on the critical competencies and behaviors that I have demonstrated across my engagements.
- ii) Key competencies that I have demonstrated during FY17 relate to working across boundaries and drive to lead innovative solutions in a frontier sector. [...] I have demonstrated commitment to serving IDA [International Development Association] and FCS [Fragile Conflict Affected Situations] countries and the tenacity to work through obstacles and challenges [...]. Given that my assignments were in notoriously difficult sector and regions, [...] underrating these qualitative parameters is significantly penalizing. They should be explicitly appreciated, particularly because: i) they feed the annual Talent Reviews and ii) IFC is embarking on a critical workforce planning exercise to align staff deployment with the strategic priorities [...].
- iii) My supervisor made inaccurate and misleading statements in her Mid-Year Review comments to justify management's failure to staff me on new Agribusiness projects as planned, which impacted my ability to close transactions, again for another year. The first is about IFC's "business model", and more precisely [Investment Officers'] functional specialization. The second is about a fallacious argument repeated throughout our long dispute resolution process suggesting that I am not willing to be flexible and adapt to the institution's needs [...].
- iv) I have been unfairly excluded from the 2017 Team Performance Award for the NFD fisheries project [...]. My supervisor did not have full control over the NFD award decision, however my Reviewing Official could have ensured fair recognition of my contribution. This looks like a form of retaliation [...].
- v) [...] [T]his [performance evaluation] was the right place for [the MAS Director, in his role as Reviewing Official] to re-affirm in the HR [Human Resources] records his publicly-communicated appreciation of the "great work" that I have done in fisheries [...] that is, before he finalized my [performance evaluation] on December 22, 2017 [...].

- vi) Finally, this Performance Management Review is very important to provide an independent third-party perspective on concerns related to my FY17 [performance evaluation] that I mentioned in my November 15, 2017 Administrative Tribunal application. IFC responded with a Preliminary Objection to the application, in part contending that I have not exhausted remedies for certain claims of continued unfair treatment, including issues related to my FY17 performance evaluation. This review will therefore support due process, and could be necessary for the Tribunal's consideration of my complex case in a holistic manner.

25. In her PMR Request for Review, the Applicant drafted specific language which she sought to be added to her performance evaluation. The proposed changes highlighted her “strong leadership,” “strong ability to work across boundaries within the World Ban[k] Group,” and “strong inner motivation and experience working in difficult frontier sectors and IDA and FCS countries,” among other strengths and projects.

26. The PMR Reviewer concluded management's evaluation of the Applicant during FY17 was based on a reasonable and observable basis, that management followed applicable rules and procedures in conducting the Applicant's Annual Review, and that her right to due process was not violated.

27. The PMR Reviewer recommended “one narrowly defined change” to the Applicant's Annual Review, namely, that management add more qualitative feedback in the “Strengths (skills and behaviors)” section based on the comments made by the multirater feedback providers. The PMR Reviewer further recommended that management share with the Applicant the qualitative feedback received during the Talent Review.

28. On 17 July 2018, the Chief Operating Officer sent an email to the Applicant providing the Applicant with the PMR Report and informing the Applicant that the PMR recommendation was accepted.

29. On 4 September 2018, in a meeting between the Applicant, her FY17 supervisor, and her department's HR Officer, the supervisor verbally shared with the Applicant feedback discussed during the MAS FY17 Talent Review assessment. On 6 September 2018, in a meeting between

the Applicant, her current supervisor, and the department's HR Officer, her supervisor verbally shared the feedback that was discussed during the MAS FY18 Talent Review assessment.

30. On 14 September 2018, the MAS Director amended the Applicant's Annual Review to include the specified qualitative feedback indicated in the PMR recommendation. Namely, in the "Strengths" section of the Applicant's FY17 Annual Review, the MAS Director added, "Significant knowledge of the aquaculture and fisheries sector, key places and sector trends[;] Motivation to engage with clients and build connections[;] Experience in working directly within the World Bank ENR [Environment & Natural Resources] team[; and] Articulate and compelling verbal and written communicator."

31. In her Application, the Applicant seeks the following: (i) revision of her FY17 performance evaluation; (ii) "[a]ccess to the Talent Review Ratings and Assessments for FYs 15/16/17/18 in [the] Applicant's personnel files"; (iii) agreement on a work program that "best utilizes [the] Applicant's skills and strengths as a Principal Investment Officer in the context of IFC's new strategy"; (iv) agreement on "career and profile enhancing assignments"; (v) "absolute transparency" in decisions affecting the Applicant's career; (vi) compensation in the amount of one year's salary; and (vii) legal fees and costs in the amount of \$8,670.00.

SUMMARY OF THE MAIN CONTENTIONS OF THE PARTIES

PERFORMANCE EVALUATION

The Applicant's Contention

The FY17 performance evaluation was unfair and procedurally flawed because it failed to provide qualitative parameters, included misleading comments, omitted achievements, and violated the Applicant's due process rights because of its delayed approval

32. The Applicant claims that (i) her FY17 performance evaluation unfairly penalized her performance ranking because it included a misleading reference to her refusal of a business development role back in 2015 and lacked qualitative comments; (ii) she was unfairly excluded

from a team performance award; (iii) the MAS Director, as Reviewing Official, failed to reaffirm in her FY17 performance evaluation a public comment he made during a meeting in which he expressed appreciation for the Applicant's "great work"; and (iv) the MAS Director, as Reviewing Official, unreasonably delayed the completion of her FY17 performance evaluation.

33. The Applicant asserts that there is evidence that "the design of work programs and performance metrics is sometimes used as a tool to set up staff on an exit trajectory over time, based on productivity" and believes that her performance evaluation indicates that management is shaping her performance reviews to justify her eventual exit from the IFC. To support this contention, the Applicant points to the criticisms and omissions of key skills in her FY17 performance evaluation, her exclusion from a team award, and the delay and lack of feedback from the MAS Director.

Supervisor feedback

34. The Applicant concedes that in her FY17 performance evaluation her "supervisor and co-feedback provider's comments overall summarize well the tasks that [the Applicant] completed per [her] objectives, and their final outcomes." However, the Applicant submits, the supervisor failed to provide comments "on the critical competencies and behaviors that [the Applicant] demonstrated across [her] engagements."

35. The Applicant acknowledges that the amendments to her supervisor's comments following her PMR Request for Review partially addressed her concerns relating to a lack of qualitative feedback, but she maintains that the evaluation still underrates her skills of "working across boundaries within and outside the WBG [World Bank Group]" among other requested revisions. To support this contention, the Applicant points to comments from her feedback providers that compliment her tenacity to work through obstacles and challenges in difficult sectors and regions.

36. The Applicant contends her supervisor unfairly included in her FY17 Mid-Year Review an instance when the Applicant turned down a business development role back in 2015. According to the Applicant, this comment is misleading because it implies there were no alternative opportunities since she declined the role, and according to the Applicant this was not true.

Exclusion from the NFD fisheries team award

37. The Applicant contends that she was unfairly excluded from the NFD fisheries team award considering her contributions to the project. The Applicant states that she “contributed to originating [the NFD fisheries project] in 2016 and supported it in the back scene facilitating collaboration with the World Bank.” The Applicant asserts that, even if the awarding manager had limited funds, the Applicant could have been recognized through a non-monetary award.

The MAS Director’s feedback

38. According to the Applicant, the MAS Director’s “succinct comment endorsing the [supervisor’s] conclusions [in the FY17 performance evaluation] contradicts his public declaration of his appreciation of the work that [the Applicant had] done in fisheries during a Concept Review Meeting.” In the Applicant’s view, the MAS Director’s omission of this praise or any qualitative feedback in her FY17 performance evaluation contributes to the evaluation’s shortcomings.

The MAS Director’s sign-off delay

39. The Applicant further asserts that the MAS Director’s three-month delay in signing off on the performance evaluation affected the Applicant in two ways. First, it caused uncertainty and stress. The Applicant states that she had not seen the draft evaluation comments and, according to the Applicant, the MAS Director “insinuated to her in late October 2017 that there was a big debate amongst the 20 or so members of the MAS management team on whether to give [the] Applicant an SRI of 2 or 3.” Second, according to the Applicant, the delay affected her right to due process because, had the evaluation been completed by the recommended deadline, she could have brought this claim together with her first application to the Tribunal and saved the expense of filing this Application.

40. The Applicant asserts the impact of these failures unfairly penalized her performance ranking among her peers in the Talent Review. This is especially concerning to the Applicant in the context of the IFC’s new strategy (IFC 3.0) which emphasizes certain qualitative skills and because, according to the Applicant, IFC 3.0 aims to terminate “around 100 Grade H staff in the Operational Vice-Presidency Unit alone and around 17 HQ-based [G]rade H staff in her Department (MAS).”

The IFC's Response

The Applicant's claims fall short of the Tribunal's established standard for the review of performance evaluations because the performance evaluation is factually accurate, balances the positive and negative aspects of the Applicant's performance, and did not affect her due process rights

41. The IFC points to (i) the Applicant's own admission that her FY17 performance evaluation "summarizes well" the work she completed; (ii) the supervisor's revisions to include qualitative feedback in the FY17 performance evaluation following the PMR recommendation; and (iii) the feedback providers' comments, to show that the performance evaluation was factually accurate and balanced the positive and negative aspects of the Applicant's performance. The IFC submits that the Applicant seeks a line-by-line review by the Tribunal and a substitution of management's rationale with her own rationale.

42. In response to the Applicant's request for specific additions and edits to her FY17 performance evaluation, the IFC quotes the Applicant's admission that her supervisor's comments "overall summarize well the tasks that [she] completed per [her] objectives, and their final outcomes." The IFC further notes the addition of qualitative feedback added to the FY17 performance evaluation following the PMR recommendation which captured the sentiments expressed by the FY17 feedback providers. Moreover, the IFC notes the fully satisfactory performance rating of 3 the Applicant received during FY17. Therefore, in the IFC's view, the further revisions the Applicant seeks are unwarranted.

43. In response to the Applicant's objection to her supervisor's Mid-Year Review comment indicating the Applicant turned down a business development role in 2015, the IFC explains the reference is not misleading, rather

it simply refers to the time when management last identified a new business development opportunity suitable for [the Applicant's] skills and experience [...]. By the time of the Mid-Year Review management had not been able to identify another business development area or find mandated projects for her to process. [The Applicant's supervisor] provided this explanation in response to [the Applicant's own Mid-Year-Review comments].

44. In response to the Applicant's assertion that the MAS Director, as Reviewing Official, failed to include certain feedback in her performance evaluation, the IFC quotes the Administrative Reviewer who found that "many Reviewing Officials do not provide comments in the staff member's [performance evaluation document] when approving it. Approving large numbers of [performance evaluations] for the entire department, tends to make commenting on each [performance evaluation] a difficult undertaking."

45. According to the IFC, performance evaluations represent an overall assessment of the performance, not a mandatory iteration of specific terms about single instances. The IFC submits that the MAS Director should not be legally required to include a one-time praise in order to adequately reflect the Applicant's performance. The IFC asserts that to require the MAS Director to include a comment he had made relating to the Applicant's "great work" would require the Tribunal to conduct a microscopic review and substitution of the judgment of the Applicant's management.

46. Furthermore, the IFC points to the date of the MAS Director's comment, made in November 2017, over four months after the close of FY17. The IFC asserts that, since the FY17 performance cycle spans from July 2016 to June 2017, the MAS Director's comment in November 2017 would not have been appropriate to include in the Applicant's FY17 Annual Review.

47. The IFC additionally maintains that the performance evaluation followed the required procedures because the Applicant was in a position to have her comments heard during the mid-year and annual review discussions with her supervisor. To the IFC, the Applicant's due process rights were respected because the delayed finalization of the performance evaluation neither constituted a remarkable procedural flaw nor harmed the Applicant, because the claim would not have been ripe to be considered in conjunction with the Applicant's first application before the Tribunal as she contends.

48. In the IFC's view, the Applicant is requesting an unreasonable, microscopic review by the Tribunal considering the present circumstances in which management was factually accurate in

summarizing the work the Applicant completed in FY17, balanced the positive and negative aspects of the Applicant's performance, and did not affect the Applicant's due process rights.

CAREER MISMANAGEMENT

PRELIMINARY OBJECTION

The Bank's Contentions

The Applicant's career mismanagement claim is outside the Tribunal's jurisdiction because it either is barred as res judicata as it relates to matters previously adjudicated or is inadmissible since the Applicant has failed to exhaust internal remedies

49. The IFC maintains that the Applicant's career mismanagement claim is inadmissible because it either (i) is barred as *res judicata* as it relates to matters adjudicated in *EQ (Merits)*, Decision No. 595 [2018], or (ii) is inadmissible since the Applicant has not exhausted internal remedies prescribed by Article II of the Tribunal's Statute with respect to that claim.

50. *EQ (Merits)* addressed the Applicant's claims relating to the reassignment and removal of two IFC clients from her work program during FY16 and her FY16 performance evaluation. Therefore, according to the IFC, under the principle of *res judicata*, the Applicant is barred from relitigating her FY16 work program and FY16 performance evaluation claims.

51. The IFC maintains that the Applicant has not exhausted internal remedies for her claim relating to her allegation of career mismanagement. The IFC states that the Applicant's claims must first be considered by Peer Review Services (PRS), as required by Staff Rule 9.03, and that the Applicant has not fulfilled that requirement.

52. The IFC further maintains that the Tribunal made clear to the Applicant in *EQ (Preliminary Objection)*, Decision No. 584 [2018], para. 62, that the appropriate administrative remedy for career mismanagement claims is PRS, and still the Applicant did not seek PRS review before filing this claim with the Tribunal.

53. The IFC asserts that the Applicant has not shown any special circumstances exist to excuse the failure to exhaust remedies, nor has the IFC agreed to submit the career mismanagement claim directly to the Tribunal.

The Applicant's Response

The continued career mismanagement claim has not previously been addressed by the Tribunal, the Applicant was not required to exhaust internal remedies, and, if the Applicant was required to exhaust internal remedies, she should not be penalized for the ambiguity in the jurisdiction over career mismanagement claims stemming from disputed performance evaluations

54. The Applicant concedes that the evidence she provided in her pleadings relating to FY18 is “beyond the scope” of this Application but maintains that the Tribunal has jurisdiction over the continued career mismanagement claim as it relates to FY16 and FY17.

55. The Applicant contends that *EQ (Merits)* did not address her continued career mismanagement claim, nor did it deny the Applicant her right to have the claim adjudicated once it was ripe.

56. To support her contention that she was not required to exhaust internal remedies, the Applicant points to the holding in *EV (Preliminary Objection)*, Decision No. 596 [2018], which states in para. 46:

The Tribunal holds that there is no rule that requires the Applicant to appeal to PRS every instance of management’s failure to act according to the terms of his appointment, where he claims that these instances cumulatively led to an improper decision not to confirm his appointment. It would be contrary to the efficient administration of justice and impractical to require the Applicant to challenge before PRS every individual decision, directly related to the non-confirmation decision, each time it arose.

57. The Applicant reasons that her circumstances are like that of the applicant in *EV (Preliminary Objection)* because the Applicant here is also appealing a series of behaviors that she asserts cumulatively support her claim. The Applicant believes the IFC is attempting to create a

distorted narrative by arguing for a piece-by-piece review of the elements of the Applicant's claims such that the cumulative impact on the Applicant's career is ignored.

58. The Applicant further contends that there is ambiguity in both the Staff Rules and the PRS directives on jurisdiction and procedures for filing claims of career mismanagement that stem from performance evaluation-related disputes.

59. On 11 September 2018, the PRS Executive Secretary sent the following email to the Applicant in response to the Applicant's inquiry regarding PRS's jurisdiction over career mismanagement claims relating to performance evaluation disputes:

I note that your below email emphasizes that your grievance relates to an alleged *continued* career mismanagement. You may wish to consult with the Staff Association for assistance and general guidance on the various options that are available to you at this juncture. You may wish also to contact Ombuds Services and/or Mediation Services as the least formal resources within the IJS [Internal Justice Services]. In any event, you may wish to supply more detailed information - along with relevant supporting documentation - to the IJS office with whom you decide to pursue or file this grievance. As you may be aware already, filing with Administrative Review (AR) is a mandatory pre-requisite to filing with Performance Management Review (PMR). A Reviewer with AR or PMR - as the case may be - may be in a position to ascertain whether AR - or PMR - is mandated to review your claim under Staff Rules 9.06 or 9.07, respectively, after you provide specific supporting details should you wish to pursue these avenues. As regards PRS, the Peer Review Chair, not the PRS Secretariat, determines if PRS has authority to review a disputed employment matter and whether a filing is timely under Staff Rule 9.03. For this determination to be possible, however, a formal "request for review" would need to be filed with PRS, supplying the necessary details and pertinent attachments. For your convenience, kindly find an Intranet link to IJS where you may find information about the respective IJS units, mandates, and filing requirements [...]. (Emphasis in original.)

60. The Applicant maintains that, when she sought clarity on PRS's jurisdiction over career mismanagement claims stemming from disputed performance evaluations, she was provided tentative, confusing advice from the PRS Secretariat. The Applicant reasons, therefore, that she should not be penalized for the ambiguity.

MERITS

The Applicant's Contention

The Applicant's FY16 and FY17 performance evaluations display a pattern of underrating the Applicant's core strengths, and the Applicant's requests for clarification of decisions affecting her career have been ignored

61. The Applicant alleges that her “supervisor and the [MAS Director], and possibly with the complicity of HR[,] have been doing everything they can to demonstrate that [the] Applicant does not display the required core qualities for the new IFC [3.0], in order to set her up for forced separation.” To support this allegation, the Applicant points to the AR and PMR recommendations for revisions to her performance evaluations in FY16 and FY17 to show that she has been repeatedly underrated. The Applicant contends that the multirater feedback received during FY16 and FY17, some of which highlights her IFC 3.0–aligned skills, was unfairly omitted from her performance evaluations.

62. The Applicant contends that the revisions to her performance evaluations following AR and PMR do not remedy the harm to her reputation. The Applicant further alleges harm to her reputation based on her suspicion that her supervisor shared unfounded negative criticism about the Applicant's performance, competencies, and behaviors in Talent Review meetings. To support this contention, the Applicant points to the six non-managerial jobs she applied to between December 2016 and December 2017 but was not short-listed for despite her qualifications, gender, and Part II country origin.

63. The Applicant additionally alleges that her non-selection may have resulted from a delay in amendments to her FY16 performance evaluation to remove reference to unsatisfactory performance following an AR recommendation. The Applicant was informed that hiring committees are permitted to view only *short-listed* candidates' HR files; however, the Applicant points to a lack of evidence that such a rule exists or is respected and maintains that the delay in revision likely contributed to her non-selection for the various positions to which she applied.

64. The Applicant is dissatisfied with the Talent Review feedback her supervisor verbally discussed with her and seeks access to her Talent Review ratings, speculating they “could reveal missing tangible evidence that [the] Applicant has been placed on an exit path as early as 2015 despite satisfactory SRI ratings.” The Applicant maintains that this “failure of transparency directly contradicts the Principles of Staff Employment,” and it reveals an unwillingness to engage fairly and honestly with the Applicant and her career aspirations.

The IFC’s Response

The Applicant’s claim is wholly unfounded because management did not affirmatively or intentionally place obstacles in the Applicant’s way, nor was management’s behavior the dominant cause of the Applicant’s career disappointment

65. In the IFC’s view, the Applicant’s “potpourri of loose factual accounts and insinuations” falls short of explaining, let alone establishing, her claim of career mismanagement.

66. In the IFC’s view, the only clearly articulated allegation with respect to career mismanagement is the alleged withholding of Talent Reviews. In this regard, and as the Applicant herself concedes, the Applicant was provided with a verbal overview of the feedback received during the FY17 and FY18 Talent Review meetings, per the PMR recommendation to discuss the qualitative feedback. The IFC maintains that, except with respect to the withholding of the talent ratings, the Applicant fails to identify what might have been missing in the two conversations the Applicant reports to have had with her managers and the HR Officer regarding the FY17 and FY18 Talent Reviews, respectively.

67. The IFC maintains that, even by her own account, the Applicant’s career disappointment is not caused by the IFC. Since the reorganization of MAS in 2015, the Applicant was informed that she would need to agree on a work program other than aquaculture, an instruction which was received with reluctance by the Applicant. The IFC points to the Applicant’s choice to turn down the option to take on the business development role in West Africa in 2015, which would have allowed her to continuously generate her own projects for the IFC throughout later fiscal years, a valued activity in the IFC.

68. According to the IFC, management not only refrained from intentionally placing obstacles in the Applicant's way, but also sought to assist the Applicant in her career. The IFC cites the Applicant's own admission that during FY17 the MAS Director and the Applicant's supervisor helped to negotiate a developmental assignment for the Applicant and secure it by agreeing to cover the Applicant's cost for a portion of the project.

69. Finally, the IFC points to the Mid-Year and Annual Review Supervisor Comments to show that management accurately captured the Applicant's achievements, adjusted her quantitative objectives by noting that no investment would be expected during the fiscal year, and made clear the reasons the Applicant could not deliver on project commitments.

THE TRIBUNAL'S ANALYSIS AND CONCLUSIONS

PERFORMANCE EVALUATION

Scope of the Tribunal's review of performance evaluations

70. The Tribunal has consistently held that it will examine challenges to performance management decisions *de novo*. In *EO*, Decision No. 580 [2018], para. 98, the Tribunal stated:

The AR/PMR process is an administrative recourse mechanism and the reviewers make recommendations to the management, which makes the final decision. Neither the Administrative Reviewer nor the Performance Management Reviewer is a judicial body. The Tribunal remains the only judicial body to which an aggrieved staff member can file an application, and, under Article II, paragraph 1, of the Statute of the Tribunal, the Tribunal's role is to review decisions taken by the World Bank Group alleged to violate a staff member's contract of employment or terms of appointment, including performance management decisions.

71. In reviewing performance evaluations, the Tribunal held in *Malekpour*, Decision No. 322 [2004], para. 15:

The evaluation of staff performance is an essentially discretionary act entailing the exercise of judgment by management, which is presumed to possess the requisite familiarity with the work of all departmental staff members and to have made many comparative quality judgments [...]. The task of the Tribunal is not to "substitute

its own judgment for that of the management” (*Polak*, Decision No. 17 [1984], para. 43) [...]. The proper task of the Tribunal is, rather, to determine whether or not management’s acts and decisions in connection therewith constituted, or were attended by, an abuse of discretion.

72. The Tribunal in *Desthuis-Francis*, Decision No. 315 [2004], para. 23, held that

[the Respondent must be] able to adduce [...] a reasonable and objective basis for [...] adverse judgment on a staff member’s performance. [...] The Tribunal considers that failure on the part of the Respondent to submit a reasonable basis for adverse evaluation and performance ratings is evidence of arbitrariness in the making of such an evaluation and rating. Lack of a demonstrable basis commonly means that the discretionary act was done capriciously and arbitrarily.

73. In *Mpoy-Kamulayi (No. 8)*, Decision No. 480 [2013], para. 21, the Tribunal stated:

There is no basis for considering a “Fully Successful” rating as adverse or negative. The Bank’s guidelines state that it is expected “that most staff members on many items would be rated fully successful or fully accomplished” and “that a few staff members on a few items would be rated superior.”

74. Moreover, the Tribunal stated in para. 22, citing *BI*, Decision No. 439 [2010], para. 32:

“It is not the Tribunal’s role to undertake a microscopic review of the Applicant’s performance, and to substitute its own judgment about the Applicant’s performance for the Bank’s.” Rendering judgment on the appropriateness of a Fully Successful versus a Superior rating comes close to a microscopic review. Ordinarily, to allow petitions to the Tribunal regarding disagreements as to the correctness of “Fully Successful” versus “Superior” ratings would involve unwarranted intrusion on managerial discretion.

75. The Tribunal observes that the Applicant’s overall performance for FY17 was given an SRI rating of 3, which is considered a fully satisfactory performance. The Applicant is not challenging her performance rating but claims that her FY17 performance evaluation unfairly assessed her performance because it included misleading comments, excluded certain feedback, and violated her due process rights because of its delayed submission. The IFC denies the Applicant’s claims and asserts that her FY17 performance evaluation had a reasonable and observable basis and that its delay did not harm the Applicant. The Tribunal will review these contentions accordingly.

Whether the Applicant's FY17 performance evaluation had a reasonable and observable basis

76. The Applicant contends that her supervisor's comments in her FY17 performance evaluation underrated the qualitative skills the Applicant displayed throughout the fiscal year. According to the IFC, in assessing the Applicant's performance, the Applicant's supervisor considered not only her own assessment but also the multirater feedback.

77. The Tribunal examined the multirater feedback of the Applicant's FY17 performance evaluation and observes that the feedback providers identified several strengths and areas of improvement. Many of the feedback providers noted that the Applicant possesses a deep knowledge of the fisheries sector. One noted the Applicant's strong leadership, and several praised her collaboration with World Bank colleagues. One feedback provider applauded the Applicant's persistence in difficult contexts and noted this was a valuable attribute in IFC 3.0. In the areas of improvement, however, two of the feedback providers stated that the Applicant needed to improve her decisiveness, one even noting the need for the Applicant to recognize weak deals and when to stop pursuing them. One suggested the Applicant improve on her communication skills. The Tribunal observes that the feedback given by the providers does not appear biased against the Applicant, but it instead contains a balanced assessment of the Applicant's performance.

78. Regarding the requirement that a supervisor fairly balance negative and positive aspects in a performance evaluation, the Tribunal noted in *Lysy*, Decision No. 211 [1999], para. 68:

A performance evaluation should deal with all relevant and significant facts, and should balance positive and negative factors in a manner which is fair to the person concerned. Positive aspects need to be given weight, and the weight given to factors must not be arbitrary or manifestly unreasonable.

79. The record does not support the Applicant's contention that her FY17 performance evaluation was unfair. The Tribunal finds that the Applicant's supervisor's comments in the FY17 performance evaluation had a reasonable and observable basis. The revised comments included strengths consistent with the feedback providers' comments.

80. The supervisor identified only one area for the Applicant to develop, namely that she “could contribute more if she was willing to adapt to the department needs more flexibly.” The Tribunal observes that this comment is in line with the feedback provider’s comment which noted that the Applicant could improve on letting go of projects that had weak deal prospects. The Tribunal further observes that this feedback is consistent with the feedback the Applicant received during the mid-year discussion in which her supervisor noted that “no mutually acceptable business development area ha[d] been identified” for the Applicant to work on, that this was not the business model typically followed in MAS, and that the supervisor welcomed the Applicant’s “own recommendations with regards to how best she can contribute [to the] MAS program, in line with MAS priorities.”

81. The Tribunal finds the supervisor’s recommendation for the Applicant to more flexibly adapt to the department’s needs is consistent with the feedback the Applicant received. The Tribunal, which has repeatedly emphasized the importance for it to avoid microscopic review and substitution of its own judgment for that of management, is satisfied that there was a reasonable and observable basis for the supervisor’s comments regarding the Applicant’s performance based on the received feedback and the record as a whole.

Whether the Applicant’s FY17 performance evaluation followed due process

82. The Tribunal has consistently stressed the importance of respecting the requirements of due process in relation to performance evaluations. In *K. Singh*, Decision No. 188 [1998], para. 21, the Tribunal held:

Two basic guarantees are essential to the observance of due process in this connection. First, the staff member must be given adequate warning about criticism of his performance or any deficiencies in his work that might result in an adverse decision being ultimately reached. Second the staff member must be given adequate opportunities to defend himself.

83. Staff Rule 5.03, paragraph 2.01(g), states:

The Reviewing Manager shall review and sign the performance evaluation [...]. If the Reviewing Manager agrees with the assessment of the staff member’s

performance, and recommendations, if any, comments are optional. If the Reviewing Manager disagrees with the assessment or recommendations, he or she shall set forth in writing and provide to the staff member the reasons for the disagreement and recommended action, if any.

84. The World Bank Group ePerformance portal provides the following information regarding submission timelines for performance evaluations:

Timeline: The deadline for completing End-Year Reviews is September 30 (Reviewing Official sign-off). Please click [here](#) to review the recommended timeline and milestones for completion of the end-year evaluation steps, ‘expected by’ dates are recommended to ensure all steps are completed in a timely manner before the Sep 30 deadline for Reviewing Official sign-off.

85. The Tribunal has held that “any decision to deviate from established best practices [...] must not be arbitrary or lack a reasonable and observable basis.” *DO*, Decision No. 546 [2016], para. 46. “The importance of flexibility in decision-making is recognized; yet, established guidelines cannot be rendered purposeless by awarding managers unfettered discretion to stray from them as they see fit.” *Id.*

86. The Applicant asserts that her due process rights were violated based on a ten-week delay in finalizing her FY17 performance evaluation. The Applicant maintains that the delay (i) caused stress, and (ii) negatively impacted her ability to consolidate her FY17 claims in conjunction with her FY16 claims before the Tribunal.

87. The IFC asserts that, despite the MAS Director’s delay, the Applicant was aware of the feedback in her FY17 performance evaluation, had several opportunities to defend herself, and was not harmed by the delay because the Applicant’s FY17 performance claims would not have been ripe for review by the Tribunal in conjunction with her FY16 claims even if the MAS Director, as Reviewing Official, had signed off on the evaluation by the advised submission date.

88. The Tribunal observes that the MAS Director, as Reviewing Official, deviated from the established deadline in signing off on the Applicant’s FY17 performance evaluation. The record shows that the Applicant expressed her concern regarding this delay in an email to the MAS

Director on 18 December 2017. The record further indicates that four days later the MAS Director replied, confirming he had signed off on the Applicant's performance evaluation, apologizing for the delay, and explaining the delay was workload-related and affected other staff as well.

89. Despite the delay in the MAS Director's sign-off, the Tribunal observes that the Applicant was given adequate and timely feedback about her strengths and areas to develop in relation to her FY17 performance as well as adequate opportunities to defend herself. The record shows the Applicant had both a mid- and end-year formal discussion with her supervisor relating to her FY17 performance which put her on notice of the essential substance of the FY17 performance evaluation. The record further shows that the Applicant's supervisor submitted the mid-year and end-year comments in the ePerformance portal by the recommended completion dates.

90. Although the MAS Director submitted the performance evaluation ten weeks after the submission deadline, the Tribunal observes that, had the FY17 performance evaluation been submitted by its prescribed deadline of 30 September 2017, the Applicant's claims would still not have been ripe for consolidation with the Applicant's first application before the Tribunal, received on 14 November 2017, because the Applicant would be required to first exhaust internal remedies.

91. Further, in response to the Applicant's speculation that she was being singled out due to the delay, the MAS Director explained that the Applicant had not been singled out, that many of her colleagues' performance evaluations had similarly not been signed off on, and that the delay was not personal, but rather was due to his being "swamped." The MAS Director also rectified the matter within a few days of the Applicant bringing it to his attention by signing off on her performance evaluation.

92. The Tribunal finds that the MAS Director's delay in signing off on the Applicant's FY17 performance evaluation was not arbitrary, and that the Applicant's essential guarantees of due process were observed.

93. The Tribunal concludes that the Applicant's FY17 performance evaluation had a reasonable and observable basis and followed due process.

CAREER MISMANAGEMENT

PRELIMINARY OBJECTION

94. The IFC raised a preliminary objection pursuant to Rule 8 of the Tribunal's Rules, asserting that the Applicant's career mismanagement claim is inadmissible under Article XI(1) and Article II(2)(i) of the Tribunal's Statute.

95. The Tribunal's Statute states at Article XI(1), "Judgments shall be final and without appeal."

96. The IFC contends that, to the extent that the Applicant's claims of career mismanagement relate to and are based on facts that have been addressed by the Tribunal in its previous judgment in the Applicant's first case, these claims should now be deemed inadmissible under the principle of *res judicata*.

97. The Tribunal has repeatedly held in its jurisprudence that previously adjudicated claims that an applicant attempts to submit again in another application are "irreceivable under the principle of *res judicata*." *Madabushi*, Order No. 2002-10 [2002], para. 4; *Pal (No. 2)*, Decision No. 406 [2009], para. 34.

98. The Tribunal finds that the Applicant's claim of career mismanagement as it relates to and is based on facts that have been addressed by the Tribunal in its previous judgment, *EQ (Merits)*, is irreceivable under the principle of *res judicata*. The Tribunal will therefore not entertain any attempt by the Applicant to have this claim reexamined.

99. Furthermore, in its jurisprudence, the Tribunal notes that it has also "rejected the notion that incidents inadmissible as claims may be incorporated into present proceedings as 'background evidence'" (*Sekabaraga*, Decision No. 494 [2014], para. 36); or to prove a "pa[t]tern of injustice and unfair dealing" (*EE*, Decision No. 148 [1996], paras. 34–35). For this additional reason, the Applicant's claim of career mismanagement as it relates to and is based on facts that have been

addressed by the Tribunal in its previous judgment in the Applicant's case will not be reviewed by the Tribunal.

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

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

(i) the applicant has exhausted all other remedies available within the Bank Group, except if the applicant and the respondent institution have agreed to submit the application directly to the Tribunal [...].

101. The internal remedies available, and the procedural requirements applicable, are addressed in Staff Rule 9.03, paragraph 7.02, which requires that

[a] Staff Member seeking a review of a disputed employment matter is required to submit the matter first to the Peer Review Services prior to appealing to the World Bank Administrative Tribunal, unless the matter comes under one of the exceptions listed in paragraphs 7.03 or 7.04 of this Rule. A Staff Member seeking review of the performance management decisions set forth in subparagraph 7.04(h) is required to submit the matter to Administrative Review, as set forth in Staff Rule 9.06, "Administrative Review of Performance Management Decisions," and thereafter Performance Management Review, as set forth in Staff Rule 9.07, "Performance Management Review," prior to seeking review with the World Bank Administrative Tribunal.

102. Staff Rule 9.06, paragraph 3.01, states that the Administrative Review procedure

is the first step for requesting review of a Performance Management Decision and must be exhausted before seeking Performance Management Review. Administrative Review is conducted by the World Bank Group Human Resources Vice President, or an official designated by the World Bank Group Human Resources Vice President, who considers whether management acted within its discretion, satisfied its obligations to the staff member, and followed proper procedures in connection with the Performance Management Decision under review.

103. Staff Rule 9.07, paragraph 3.01, provides:

Performance Management Review is the process by which staff members may request review, by a neutral reviewer, of a Performance Management Decision.

Performance Management Review is conducted by a Reviewer, who considers whether management acted within its discretion, and otherwise satisfied its obligations to the staff member, in connection with the decision under review. Performance Management Review is intended to facilitate resolution of staff member concerns in a constructive manner at the earliest opportunity through an impartial and efficient process.

104. The Tribunal has frequently emphasized the importance of the requirement to exhaust the internal remedies set forth in Article II(2) of its Statute. In *Klaus Berg*, Decision No. 51 [1987], para. 30, the Tribunal stated, “This statutory exhaustion requirement is of the utmost importance. It ensures that the management of the Bank shall be afforded an opportunity to redress any alleged violation by its own action [...].” It further noted that

the pursuit of internal remedies, in particular the findings and recommendations of the Appeals Committee, greatly assists the Tribunal in promptly and fairly disposing of the cases before it. The Appeals Committee permits a full and expeditious development of the parties’ positions, including the testimony of witnesses, and often results in the announcement of recommendations that are satisfactory to both the Bank and to the aggrieved staff member. *Id.*

105. Here, the Applicant seeks review for a career mismanagement claim based on allegedly improper performance evaluations. The Applicant sought advice from the PRS Secretariat regarding PRS’s jurisdiction over performance evaluation–related career mismanagement claims. Not having access to “more detailed information,” the PRS Executive Secretary advised the Applicant to seek the Staff Association’s guidance on the various options available to her. The PRS Executive Secretary also noted that a “Reviewer with AR or PMR - as the case may be - may be in a position to ascertain whether AR - or PMR - is mandated to review your claim under Staff Rules 9.06 or 9.07,” and that the PRS “Peer Review Chair, not the PRS Secretariat, determines if PRS has authority to review a disputed employment matter.”

106. The Applicant thereafter submitted AR and PMR Requests for Review relating to her FY17 performance evaluation, and eventually filed this Application before the Tribunal contesting her FY17 performance evaluation and career mismanagement. To support her career mismanagement claim, the Applicant has included in her Application claims beyond the FY17 performance evaluation, namely her FY16 performance evaluation, which was previously addressed in *EQ*

(*Merits*) and is barred by the principle of *res judicata*, and her FY18 performance evaluation, which the Applicant herself admits is “beyond the scope” of this Application.

107. The Applicant contends that (i) her FY17 performance evaluation amounts to career mismanagement; (ii) AR and PMR were the appropriate remedies to exhaust prior to filing with the Tribunal; and (iii) if they were not the appropriate remedies to exhaust, she should not be penalized for the jurisdictional ambiguity present in the Staff Rules.

108. In Staff Rule 9.03, paragraphs 7.04(g) and (h) state that “[PRS] Panels do not review Requests for Review concerning [...] decisions regarding performance management [including] a Staff Member’s written performance evaluation [or] any other type of decisions for which specialized appeal procedures may be established or in relation to which it is specifically provided that peer review is not available.”

109. In consideration of the Applicant’s FY17 career mismanagement claim, stemming from her FY17 performance evaluation, the Tribunal observes the language of the PRS and PMR directives and notes an ambiguity as it relates to career mismanagement claims which stem from performance evaluations. Given this background, the Tribunal will proceed to review the Applicant’s career mismanagement claim as it pertains to her FY17 performance evaluation.

MERITS

Whether the treatment of the Applicant constitutes mismanagement of the Applicant’s career

110. The Tribunal has in the past “sanctioned the Bank for ‘mismanagement of [an applicant’s] career’ on the basis of its ‘behavior towards the [a]pplicant [...] taken as a whole.’” *See Yoon* (No. 5), Decision No. 332 [2005], para. 70, citing *Chhabra*, Decision No. 139 [1994], para. 57. The Tribunal has previously referred in *Chhabra*, para. 57, to instances of career mismanagement as follows:

In Durrant-Bell (Decision No. 24 [1985]), the Tribunal, while concluding that the decision by the Respondent to terminate the employment of the Applicant “shall

stand”, nevertheless granted the Applicant compensation because of “certain discrepancies and inconsistencies in the treatment of the Applicant’s case by the Respondent”. Likewise, in the present case, the Tribunal concludes that, although no particular decision of the Respondent is to be quashed, the Respondent’s behavior towards the Applicant from the Reorganization onwards, taken as a whole, constitutes mismanagement of the Applicant’s career. It reveals errors of judgment which taken together amount to unreasonableness and arbitrariness. Such behavior falls short of the standards of treatment required of the Bank under the Principles of Staff Employment.

111. Here, the Applicant characterizes her claim as a performance evaluation–related career mismanagement claim stemming from her FY17 performance evaluation. Having above-considered the Applicant’s FY17 performance evaluation claim and finding a reasonable and observable basis for the substance of the performance evaluation and noting that the Applicant’s performance was rated fully satisfactory during FY17, the Tribunal finds it unnecessary to address the arguments of the parties with respect to this claim and dismisses it, finding no basis.

DECISION

The Application is dismissed.

/S/ Mónica Pinto
Mónica Pinto
President

/S/Zakir Hafez
Zakir Hafez
Executive Secretary

At Washington, D.C., 25 October 2019