World Bank Administrative Tribunal

2025

Decision No. 715

HW,
Applicant

v.

International Bank for Reconstruction and Development,
Respondent

(Preliminary Objection)

World Bank Administrative Tribunal
Office of the Executive Secretary

HW,
Applicant

v.

International Bank for Reconstruction and Development,
Respondent

1. This judgment is rendered by the Tribunal in plenary session, with the participation of Judges Janice Bellace (President), Seward Cooper (Vice-President), Lynne Charbonneau (Vice-President), Martha Halfeld Furtado de Mendonça Schmidt, Thomas Laker, Raul C. Pangalangan, and Joëlle Adda.

2. The Application was received on 20 July 2024. The Applicant represented herself. The Bank was represented by David Sullivan, Deputy General Counsel (Institutional Administration), Legal Vice Presidency. The Applicant's request for anonymity was granted on 8 May 2025.

3. The Applicant challenges (i) the alleged "exclusion and marginalization at the level of roles and responsibilities for an Iraqi Female with Fixed Term Contract," (ii) the "not evidenced based allegations on [her] performance and putting [her] on an OTI [Opportunity to Improve Performance] plan," (iii) the non-extension of her term appointment, and (iv) the purportedly "inglorious" decision of the Peer Review Secretariat.

4. On 11 September 2024 the Bank submitted preliminary objections to the Application. This judgment addresses the Bank's preliminary objections.

FACTUAL BACKGROUND

5. The Applicant joined the Bank in February 2020 on a two-year term appointment as a locally recruited Operations Officer, Grade Level GF, based in Baghdad, Iraq, with the Urban Unit of the Middle East and North Africa region. The Applicant's work portfolio was focused on the Iraq Reform, Recovery, and Reconstruction Trust Fund (I3RF) Secretariat.

6. The Applicant claims that, from the start of her appointment, she was "exposed to a variety of unwelcomed and offensive conduct patterns lasted up to the end of [her] contract." The Applicant states:

> [T]he patterns of actions and behavior adopted against me since my early months of enrollment ***were built on discriminatory approach against hiring an Iraqi Female Local Staff Member***, that resulted in very severe restrictions with high level of exclusion, along with not evidence-based performance evaluations that ***ended up with the cancelation of the position***. (Emphasis in original.)

The Applicant claims further that raising her concerns over the course of her employment

> ***has resulted in exposing [her] to more unwelcomed conducts, different types of exclusions and marginalization***, creating a very unhealthy work environment that always provoked huge huge frustration, increased sense of vulnerability especially within the I3RF Secretariate, put [her] under huge level of stress and anxiety, letting [her] running in different directions asking for support and advice, [and] exposed [her] to huge embarrassment. (Emphasis in original.)

7. On 21 September 2021, the Applicant's term appointment was extended for an additional year, from 15 February 2022 to 15 February 2023.

8. On 12 October 2021, the Applicant received a performance evaluation rating of "Below Expectation" and a corresponding performance rating of 2 for Fiscal Year 2021 (FY21). On 8 November 2021, the Applicant received an OTI memorandum from her supervisor, dated 29 October 2021. The OTI memorandum provided that the following aspects of the Applicant's performance were unsatisfactory: "i) limited contribution to TF [trust fund] operation tasks, ii) difficulties in integrating the team, and iii) lack of proactivity." The OTI memorandum further provided performance goals for the Applicant and noted that improvement was expected by the end of March 2022.

9. A memorandum dated 1 June 2022 to the Applicant from her supervisor provided, "The purpose of this memo is to record the discussion we had on May 11, 2022 during which I confirmed that you have addressed and corrected the deficiencies in your performance that we had discussed on October 12, 2021." In correspondence with Peer Review Services (PRS), the Applicant claimed

that she never received this memorandum. According to the Applicant, on 11 June 2022 she received a system notification that her supervisor had commented on her performance as follows:

> [The Applicant's] performance has been improved during the first half of the FY. [The Applicant] is encouraged to continue building her technical and operational skills particularly in ensuring efficient support to […] in improving their I3RF data reporting and help reaching out on key deliverables of the I3RF program. Her current support to selected operational teams […] should go beyond the administrative support and move to more technical inputs.

10. On 1 July 2022, the Applicant emailed the Office of the Anti-Harassment Coordinator (AHC) for "advice and support" regarding the "exclusion and marginalization" she experienced in her position. On 5 July 2022, the AHC responded to the Applicant explaining the role of the AHC and offering to set up a meeting with the Applicant.

11. On 7 July 2022, the Applicant was verbally informed by her supervisor that her term appointment would end on 15 February 2023 as her position was being canceled due to the creation of a GG-level Operations Officer position in the Baghdad office. According to the Applicant, during this meeting her supervisor also informed her that she had been graduated from the OTI. On 8 July 2022, the Applicant's supervisor emailed her the written notice of the non-extension decision, writing:

> By this memorandum, I am providing you [s]ix months' written notice that your term appointment will not be extended and shall end on February 15, 2023. Please be informed that following the creation of a new GG Sr Operations Officer position based in Baghdad, the current LRS [Locally Recruited Staff] GF Operations Officer position will be canceled on Feb 16, 2023.

12. According to the Applicant, she applied for the GG-level Senior Operations Officer position and was not shortlisted.

13. Also on 7 July 2022, the Applicant responded to the AHC to schedule a meeting and noted that she had been notified of the end of her appointment.

14. On 9 July 2022, the AHC emailed the Applicant following their meeting, notifying the Applicant that the Ethics and Business Conduct Department (EBC) would be reaching out to her.

15. The Applicant met with EBC on 19 July 2022. On 21 July 2022, EBC emailed the Applicant to clarify if she had filed a claim with PRS.

16. On 10 August 2022, the Applicant emailed EBC and noted that she sought PRS review of the following managerial decisions: "Excluded and marginalized as an Iraqi National Female Employee from handling the roles and responsibilities as an Operations Officer"; her FY21 performance evaluation which was "built on not real reflection of the successful implementation of the tasks assigned to [her]"; and the "administrative procedures adopted in the provision of the performance evaluation and putting [her] on OTI."

17. The Applicant met with EBC on 22 August 2022. EBC emailed the Applicant following the meeting, informing her that "based on a careful review of the information [she] provided EBC determined that the nature of [her] concerns will be better addressed by the Peer Review Services (PRS) whose mandate is to review managerial decisions and the process governing such decisions."

18. The Applicant replied to EBC on 23 August 2022, noting that she would file a case with PRS and noting that she still sought EBC's "guidance as the key issue in [her] case is exclusion and marginalization as an Iraqi Local Female Employee."

19. The Applicant had a meeting with EBC on 25 August 2022 during which it was decided that the Applicant "would submit [her] case to PRS and submit the part of harassment that [she] was exposed to to EBC."

20. On 7 October 2022, the Applicant was notified by her supervisor that she had received "a Performance Rating of 3 for FY22."

21. On 17 October 2022, the Applicant emailed EBC to share the details of her case "focusing on the harassment, exclusion, and marginalization."

22. On 27 October 2022, EBC emailed the Applicant, writing:

> EBC has carefully reviewed the documents you sent. We note that the incidents you cite as harassment, discrimination and unwelcome behavior relate to the administration of your work program, performance, allocation of tasks and duties, and the nature and subsequent cancellation of your fixed term contract. EBC does not find that there is sufficient evidence to proceed with a misconduct review at this time.

EBC further encouraged the Applicant to avail herself of PRS, noting that, if PRS found any evidence to support a misconduct claim, it would refer the matter to EBC.

23. On 4 November 2022 the Applicant filed a Request for Review with PRS, seeking review of the following:

> (i) The cancelation of her position to create a Senior Operations Officer position level GG based in Baghdad, Iraq (Non-Extension Decision); (ii) The alleged "unwelcomed and offensive patterns of conduct," and "discrimination and racism," which allegedly created an "unhealthy work environment," as well as the alleged "exclusion and marginalization at the level of roles and responsibilities since the early months of [her] recruitment" which allegedly prevented [the Applicant] from the "efficient and sufficient handling of [the I3RF] portfolio in comparison with the roles and responsibilities the Operations Officer in Beirut Office deals with as well as the roles and responsibilities indicated in [the] new post of 'Senior Operations Officer'" (Allegations of Misconduct); (iii) The alleged "unfounded" Performance Evaluation, which placed [the Applicant] on an Opportunity to Improve Performance Plan (OTI Plan), (Performance Management Decisions).

24. The Applicant's last day of employment was 15 February 2023.

25. On 3 April 2023, the PRS Panel issued a decision to partially dismiss the Request for Review, noting that it was dismissing the Applicant's claims regarding "(1) Allegations of Misconduct, and (2) Performance Management Decisions on the basis that these claims are outside the jurisdiction of PRS under Staff Rule 9.03 (Peer Review Services), paragraphs 7.04(h) and 11.03(b)(ii) and Staff Rule 3.00 (EBC), paragraph 6.01."

26. The PRS Panel also decided that it would continue with its review of the Applicant's claims with regard to the Non-Extension Decision. The PRS Panel noted that it would review the Applicant's claims "relating to the Performance Management Decisions, and the Allegations of Misconduct to the extent that such claims are pertinent to its review of the Non-Extension Decision." The PRS Panel decision finally noted that, if the Applicant was "dissatisfied with the outcome of the Peer Review process, the next step regarding the dismissed claims would be recourse to the Tribunal, which has its own rules and procedures for the filing of claims."

27. On 28 September 2023, the Applicant received an email from PRS, which stated in part:

> We have attached a brochure highlighting one of the resources available to you within the Ethics and Internal Justice Services (EIJ VPU), the Race Equity Office (REO).
>
> The REO is the EIJ VPU's focal point on concerns and claims of racism and racial discrimination within the World Bank (WB). The REO was established in February 2022, to prevent, monitor, and respond to systemic practices and procedures that contribute to racial discrimination within the organization. The REO offers a safe, confidential space for WB staff who have experienced, witnessed or have concerns about racism and racial discrimination in the workplace.
>
> Kindly note that PRS will not refer your race-related claims to the REO. You may reach out to the REO directly by Telephone: […], or Email: […].
>
> Please note that REO and PRS are separate, confidential, and independent units within the EIJ VPU. REO and PRS do not share any case-related information among themselves.

28. The Applicant responded to PRS the same day, thanking them for the information and writing:

> I will approach the indicated below Office and will let you know once my email is received by REO. However, please, forgive me to keep raising this issue that the way I was treated as a Fixed Term Official within the World Bank is completely connected with ending my contract. Ending my contract is the last step to end the exclusion and marginalization that I was exposed to since my enrollment.
>
> Hence, **I would highly appreciate and plea the Respected PRS and the Panel to review my case as whole** even after raising the race related claims with REO. (Emphasis in original.)

29. On 2 October 2023, the Applicant emailed the REO, writing:

> Please, may I plea to grant me the opportunity to raise my case with the EIJ VPU as the case has been running for almost one year without having an entity able to review the case from a gender national perspective. I have prepared the attached document titled "**Excluded and Marginalized as an Iraqi Female Staff Member since Recruitment in 2020**" that document the variety of unwelcomed and offensive conduct patterns and up to the end of my contract Feb. 15th, 2023, for your kind consideration. (Emphasis in original.)

30. The REO responded to the Applicant on 5 October 2023 to schedule an intake meeting. The Applicant met with the REO on 20 and 24 October 2023 to discuss her case. The Applicant continued to have email exchanges with the REO between November 2023 and January 2024 to share documents related to her case. The Applicant met with the REO on 23 January 2024 to discuss her case, after which she emailed the REO to confirm her permission for the REO to speak with the Staff Association on her behalf.

31. On 31 January 2024, the PRS Panel issued and transmitted its Report on the Applicant's Request for Review to the decision-maker, the Regional Vice President for the Middle East and North Africa region (MNAVP), for his review and decision. The same day, the PRS Panel informed the Applicant that it had transmitted its Report to the MNAVP and that the MNAVP would notify her directly of his decision and provide her with a copy of the Report at that time.

32. The PRS Panel Report concluded:

> Upon considering the totality of the evidence, the Panel concluded that the Non-Extension Decision had a reasonable and observable basis and that management followed a fair and proper process. The Panel found no evidence in the record that the Non-Extension Decision was discriminatory, made in bad faith, or otherwise improperly motivated.
>
> The Panel determined, based on the evidence, that the Non-Extension Decision did not violate [the Applicant's] contract of employment and terms of appointment. The Panel, therefore, recommends the dismissal of the RFR [Request for Review] in its entirety and does not recommend that any relief be granted to [the Applicant].

33. On 23 February 2024, the Applicant emailed the REO with updated documents regarding her case.

34. In a letter dated 26 February 2024, the MNAVP provided the Applicant with a copy of the PRS Panel Report and notified the Applicant that he had accepted the PRS Panel's recommendation that her Request for Review be dismissed and that her requests for relief be denied. The MNAVP also notified the Applicant, "If you are dissatisfied with this decision, the next step […] would be recourse to the Administrative Tribunal, which has its own rules and procedures for the filing of claims." According to the Applicant, she received the MNAVP's decision letter on 27 February 2024.

35. On 26 March 2024, the Applicant met with the REO. According to the Applicant, during this meeting the REO

> informed [her] that [her] case is not a racial issue but gender discrimination. Hence, [her] case can not be handled by the REO. During this meeting, [she] informed [the REO] that [she] received the result of the Peer Review and its Report as well as that [she] will submit [her] case to the Administrative Tribunal. [The REO] suggested that she would check with the Staff Association as well as the Secretariate of the Administrative Tribunal about the time frame for submitting the case.

36. The Applicant emailed the REO the same day, writing:

> Thank you very much for the meeting today. I send this email to share voluntarily the Peer Review Confidential letter and Report.
>
> I also would like to ask kindly about the Administrative Tribunal access and what are the proper actions to be adopted to be granted this access to raise my case. I would like also to kindly asking for your support to raise two documents and see their legal status within the Ethic Office or the Office that shall be directed to.

37. The REO responded to the Applicant on 5 April 2024, writing:

> From the documents you shared with us, it appears […] that you received written notification on February 26, 2024 (39 days ago from today). "Article II of the Statute of the World Bank Administrative Tribunal requires applications to [be] filed within 120 days after; 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."
>
> As you mentioned during our last meeting you wish to proceed to the World Bank Administrative Tribunal, one of your options today is to contact the Staff Association as soon as possible as this is the instance within our institution that may provide you with the advice you seek if you wish to do so.

38. On 7 May 2024, the Applicant emailed a Staff Association Staff Relations Counselor regarding her case and seeking support in raising her case with the Tribunal. The Staff Relations Counselor responded on 21 May 2024 asking the Applicant if she would still like to meet. On 23 May 2024, the Applicant responded to the Staff Relations Counselor that she still wished to meet. According to the Applicant, she did not hear back from the Staff Relations Counselor and no meeting was set.

The present Application and relief sought

39. The Applicant filed the present Application with the Tribunal on 20 July 2024. The Applicant filed amendments to her Application on 3 and 19 August 2024.

40. In her Application, the Applicant challenges the following:

> [Her] case as a whole that started with 1.1) exclusion and marginalization at the level of roles and responsibilities for an Iraqi Female with Fixed Term Contract, 1.2) along with endless not evidenced based allegations on [her] performance and putting [her] on an OTI plan, all conducted in noncompliance with the WBG [World Bank Group] Rules and Regulations, that was concluded with 1.3) the cancelation of the LRS GF Operations Officer position and creation of a new GG Sr Operations Officer position based in Baghdad Iraq.

The Applicant also states:

> The decision of the Peer Review Secretariat was inglorious 2.1) as it was built on forged documents submitted by the Delegated Responding Manager […] in connection with putting [her] on OTI, 2.2) as it was built on the dismissal of crucial confessions occurred during the Hearings, and 2.3) as it was not taken into consideration a number of related facts shared either in writing or during the Hearing Sessions by Witnesses.

41. The Applicant states in her requests for relief:

> The amount of compensation to be claimed is built on the legal and equitable remedies to be ordered by the Respected Administrative Tribunal.
>
> […] The [Bank's] recognition of the exclusion and marginalization that an Iraq Female Local Employee, newly recruited into the system, has been exposed to since Feb.15th 2020 up to Feb.15th, 2023 and its impact in terms of the harm to [her] career prospects, reputation, and professional life, internally and externally after the ending of [her] employment.

42. The Bank filed preliminary objections with the Tribunal on 11 September 2024.

SUMMARY OF THE CONTENTIONS OF THE PARTIES

The Bank's Main Contentions

The Application should be dismissed as untimely

43. Initially, the Bank contended:

> The *dies a quo* started to run on the date [the] Applicant received notice of the Panel's Report. [The] Applicant had 120 days from January 31, 2024 to file her Application before the Tribunal, i.e. by May 30, 2024. However, it was only on July 20, 2024, i.e. 171 days after receiving notice of the Panel's Report that she did.

The Bank submitted, "[The] Applicant has not alleged any exceptional circumstances that would cure the untimeliness of her filing. It is clear from the record that the Application is time-barred and should therefore be dismissed."

44. The Bank has rectified its contentions, now stating, "[The Bank] erroneously mentioned that the *dies a quo* started to run on the date [the] Applicant received the Panel's Report on January 31, 2024" and noting, "It appears from the review of the PRS File that [the] Applicant received copy of the Report along with the Decision Letter on February 26, 2024." The Bank now contends that the *dies a quo* started to run on 26 February 2024 and that the Applicant had 120 days from that date—or by 25 June 2024—to file her Application with the Tribunal. The Bank notes that the Applicant filed her Application on 20 July 2024, 145 days after she received notice that her

Request for Review was dismissed. The Bank submits that its "erroneous statement is therefore not material and its Preliminary Objections still stand," namely that the "Application is inadmissible and should be dismissed for untimeliness."

45. The Bank also contends that, breaking down the Applicant's claims, the Application would still be inadmissible for failing to comply with the Tribunal's statutory time limits for filings. In this respect, the Bank submits that the Applicant was informed on 3 April 2023 that the PRS Panel had dismissed her claims with respect to her Allegations of Misconduct and the Performance Management Decisions, except insofar as they relate to the non-extension decision. The Bank contends, then, that the *dies a quo* for those claims started to run on 3 April 2023 and that the Applicant had 120 days to file an application with the Tribunal with respect to those claims.

46. In response to the Applicant's contention that she exhausted all internal remedies only on 26 March 2024 when the REO notified her that it could not handle her claims, the Bank submits:

> The REO is not a formal dispute resolution mechanism or body but rather one of the informal internal justice services availed to staff members by EIJ VPU. Staff members are free to bring racial discrimination claims to REO. However, REO has no investigative or adjudicative power regarding allegations formally made by staff members, which must be brought to the appropriate forum.

The Bank further submits that the REO did not have authority over the Applicant's claim regarding the Non-Extension Decision.

47. The Bank avers, "[The] Applicant's lack of understanding of the World Bank's internal justice system is no excuse and certainly not an exceptional circumstance curing the untimeliness of her Application." The Bank notes that the Applicant was notified that her next recourse was filing an application with the Tribunal. To the Bank, "[a] reasonably prudent applicant would have preserved their claims before the Tribunal while pursuing other dispute resolution avenues in parallel." The Bank therefore requests that the Application be dismissed.

The Applicant's Response

The Application is timely

48. The Applicant contends that she filed her Application "within the 120 days of the **latest occurrence of the event giving rise to the application that is March 26th.**" (Emphasis in original.) The Applicant submits that on that date she was "notified by the Race and Equity Office (REO) of not being able to deal with [her] Exclusion and Marginalization application due to being not a racial issue." To the Applicant, the *dies a quo* "started to run from March 26th, 2024. [She] had 120 days from March 26th, 2024, to file [her] application before the Tribunal that ends by July 23rd, 2024. [She] submitted [her] application within a timeframe of 117 days."

49. The Applicant avers that she did not file her Application based on the date of her receipt of the MNAVP's decision letter "due to still having a petition for review with the Race and Equity Office and [she] did not know how long would it take to finalize the case if it was handled by the Office." The Applicant states that she "approached the REO, as one of the internal justice formal mechanisms available to [her], to raise the exclusion and marginalization claim that was dismissed on April 3rd, 2023 as indicated in Peer Review Panel's Decision to Partially Dismiss the Request for Review Memorandum." To the Applicant, she "had to submit [her] claim of exclusion and marginalization (out of three parts of [her] whole case) to be able to meet Article II/item 2 (i) of the [Statute of the] Administrative Tribunal. In addition, and if [she] did not, [she] would defiantly [*sic*] be put before a challenge of not exhausting all internal remedies especially it was indicated in the PRS documents shared with [her]."

50. The Applicant contests the Bank's position that she had exhausted all remedies with respect to the Allegations of Misconduct and Performance Management Decisions on 3 April 2023, when the Peer Review Panel dismissed these claims. The Applicant submits that the Peer Review Panel "referred [her] to the Office of Ethics and Business Conduct (EBC) within the unit of the Ethics and Internal Justice Services Vice Presidency (EIJ VPU) to raise [her] claim of exclusion and marginalization" and that the "Peer Review Secretariate has also [referred her] to the Race and Equity Office (REO) within the Ethics and Internal Justice Services (EIJ VPU) on Sept. 28th, 2023 to raise [her] claim of exclusion and marginalization."

51. The Applicant contends that the Bank "provided **inaccurate and misleading information about the mandate and authorities of the Race and Equity Office (REO)**. (Emphasis in original.) The [Bank] hugely marginalized the REO through the on-purpose denial of the facts shared with [her] in writing by the Peer Review Secretariate." The Applicant submits:

> The information provided by [the Bank] in regard to the two Offices/Mechanisms enlisted under EIJ VPU are contradictory. As the two Offices/mechanisms are within the EIJ [VPU], [t]he REO, like the EBC, is a formal mechanism, and includes all the components that any of the Offices enlisted under EIJ VPU enjoys in terms of investigations or adjudicative power. The [Bank's] denial of the REO's mandate and authorities came to weaken the approach taken by [her] to raise [her] claim with REO as part of the Ethics and Internal Justice Services (EIJ VPU).

The Applicant further submits:

> [It's] worth mentioning here that upon being notified of the cancelation of the position of Operations Officer (GF) on July 7th (verbally) and in writing July 8th 2022, **[her] journey with asking for justice has been but formal. [She] did not ask for informal settlement at all for whatever reason. Besides, seeking informal settlement of [her] case is not possible as [she is] not in service as a WBG Staff Member.** (Emphasis in original.)

52. Next, the Applicant submits that the Bank "presented false statement in regard to the claim [she] submitted to REO" and contends that her "claim to REO has nothing to do with the Non-Extension Decision." The Applicant notes that she asked the REO "to review [her] claim of being exposed to exclusion and marginalization while Non-Extension Decision was going under review by the Peer Review Panel."

53. The Applicant avers that she "did not approach the Administrative Tribunal until knowing the outcomes of the Peer Review and the REO review as these were the two internal justice mechanisms [she] raised [her] claims with." In the Applicant's view, she "filed [her] Application with Administrative Tribunal after exhausting all the internal remedies available within the Bank Group that [she] knew of or referred to by the Peer Review Secretariat and within the 120 days of the latest 'the occurrence of the event giving rise to the application' that is March 26th." The Applicant therefore requests that the Tribunal dismiss the Bank's preliminary objections.

THE TRIBUNAL'S ANALYSIS AND CONCLUSIONS

WHETHER THE APPLICATION WAS FILED IN A TIMELY MANNER

The Non-Extension Decision

54. Article II(2) of the Tribunal's Statute provides the following regarding the Tribunal's jurisdiction:

> 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; and
>
> (ii) the application is filed within one hundred and twenty 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; or
>
> (c) receipt of notice that the relief asked for or recommended will be granted, if such relief shall not have been granted within thirty days after receipt of such notice.

55. In its jurisprudence, the Tribunal has emphasized the importance of the time limits prescribed by Article II(2)(ii). In *Agerschou*, Decision No. 114 [1992], para. 42, the Tribunal explained that the prescribed time limits are "important for a smooth functioning of both the Bank and the Tribunal." *See also Tanner*, Decision No. 478 [2013], para. 45. The Tribunal has also observed that the "long-delayed resolution of staff claims 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." *Mitra*, Decision No. 230 [2000], para. 11.

56. In *DZ (No. 2) (Preliminary Objection)*, Decision No. 590 [2018], para. 88, the Tribunal stated that

> there is a time period within which a claim has to be pursued before the Tribunal or other internal bodies. Timely resolution of claims is an essential feature of the Bank's internal justice system. A staff member has to pursue a claim within the time frame articulated by the Tribunal or other bodies, counting from the day staff members knew or should have known of the claim.

57. Pursuant to Article II(2)(ii) of the Tribunal's Statute, the Applicant had 120 days from the receipt of notice, after exhausting all other remedies available within the Bank Group, that the relief asked for or recommended will not be granted to file an application.

58. The Tribunal recalls that the Applicant filed her Request for Review with PRS on 4 November 2022, challenging in part the non-extension of her term appointment. On 3 April 2023, the PRS Panel partially accepted her claim, limiting its review of the Performance Management Decisions and Allegations of Misconduct to their relevance to the Non-Extension Decision.

59. On 31 January 2024, the PRS Panel issued its Report to the MNAVP, recommending dismissal of the Request for Review and denial of relief. On 26 February 2024, the MNAVP notified the Applicant that he had accepted the PRS Panel's recommendation that her Request for Review be dismissed and that her requests for relief be denied. The MNAVP also notified the Applicant, "If you are dissatisfied with this decision, the next step […] would be recourse to the Administrative Tribunal, which has its own rules and procedures for the filing of claims." The Tribunal notes the Applicant's claim that she received this notification on 27 February 2024.

60. The Tribunal also recalls that from 2 October 2023 the Applicant was engaged with the REO regarding her allegations of "Exclu[sion] and Marginaliz[ation] as an Iraqi Female Staff Member." On 26 March 2024, according to the Applicant, the REO informed her that her case concerned gender discrimination, not race, and was outside its purview. On that same day, the Applicant emailed the REO to inquire about accessing the Tribunal and the necessary procedural steps. On 5 April 2024, the REO responded to the Applicant, noting the 120-day filing requirement

for the Tribunal, citing the Tribunal's Statute, and further noting that the MNAVP's 26 February 2024 decision had been sent to the Applicant 39 days prior.

61. The question here is whether the Applicant should have filed her Non-Extension Decision claim with the Tribunal within 120 days of the MNAVP's decision dismissing her Request for Review and denying her requests for relief.

62. The Applicant received notice of the dismissal of her Non-Extension Decision claim by the MNAVP on either 26 or 27 February 2024. Therefore, the Tribunal considers that the Applicant had 120 days from that date to file her Application with the Tribunal, or by 25 or 26 June 2024. The Applicant did not file the present Application until 20 July 2024.

63. The Applicant avers that she did not approach the Tribunal following the MNAVP's decision because she had a pending review with the REO, which she considered another necessary internal justice mechanism to be pursued after the PRS Panel's decision to partially dismiss her claims. The Applicant asserts that she needed to "exhaust all the internal remedies available within the Bank Group that [she] knew of or referred to by the Peer Review Secretariat," including the REO, before filing her Application. Therefore, to the Applicant, her Application was timely, based on her understanding that the *dies a quo* was the REO's notification on 26 March 2024.

64. The Bank contends that the REO had no authority over the Applicant's claim concerning the Non-Extension Decision. The Tribunal agrees. The Applicant recognizes that her claim with REO had "nothing to do with the Non-Extension Decision." The Tribunal notes the Applicant's request for it to review her "case as a whole" because, to her,

> [s]eparating the Management's decision of canceling the GF position from its precedent actions (exclusion and marginalization plus the not real and not evidence-based performance evaluation) represent reviewing the decision without looking at the real reasons that necessitated the cancelation of the position.

65. However, in cases where the articulation of claims lacks precision, the Tribunal has recalled that "it is the duty of every international tribunal 'to isolate the real issue in the case and to identify the object of the claim,' and that 'this is one of the attributes of its judicial function.'"

See Rittner, Decision No. 335 [2005], paras. 27–29. *See also, McNeill*, Decision No. 157 [1997], para. 26. Contrary to the Applicant's assertions, the Tribunal considers that "it is reasonably clear that more than one decision is being contested by the Applicant." *See Rittner* [2005], para. 29.

66. Accordingly, while the Applicant requests that the Tribunal review her case as a whole, the Tribunal observes that her Application encompasses multiple distinct issues, each requiring independent jurisdictional assessment. For clarity, the Tribunal identifies the claims the Applicant asks it to resolve: (i) the alleged exclusion and marginalization associated with her gender and nationality; (ii) the alleged unsubstantiated performance issues and the subsequent placement on an OTI plan, purportedly in non-compliance with Bank rules; (iii) the non-extension of her term appointment associated with the cancelation of the GF Operations Officer position and creation of a GG Senior Operations Officer position in Baghdad, Iraq; and (iv) the purportedly "inglorious" decision of the Peer Review Secretariat.

67. Having established that the Application consists of multiple, distinct claims, each of which must satisfy the Tribunal's jurisdictional requirements, the Tribunal recalls that in *L (No. 2)*, Decision No. 379 [2008], para. 22, it reiterated that it "does not allow an applicant to 'tack' numerous old and time-barred claims onto timely claims by means of a 'one ball of wax' theory or by alleging a 'pattern' of unfairness." In *O*, Decision No. 323 [2004], para. 28, the Tribunal stated:

> As noted above, the [a]pplicant contends that her several earlier claims are not subject to the exhaustion requirement because they are parts of "one ball of wax," starting in early 2000 and culminating in the January 2002 memorandum. The Tribunal's jurisprudence, however, disfavors the notion that an applicant can preserve untimely claims by means of a "one ball of wax" theory. The Tribunal in *Malekpour*, Decision No. 320 [2004], para. 21, rejected what it considered to be a strategy of that applicant to link a series of untimely claims to establish jurisdiction after the fact:
>
> > The [a]pplicant's argument appears to be an effort to tack numerous alleged Bank acts and "decisions" since the mid-1990s onto his complaint about his 2002 OPE [Overall Performance Evaluation], by alleging that those old acts and "decisions" constituted evidence of a "pattern" of "abusive treatment and retaliation" on the part of the Bank ultimately leading to the allegedly unfair evaluation in his

> 2002 OPE. In *Jalali*, Decision No. 148 [1996], para. 35, the Tribunal rejected such a litigation strategy as an indirect way of avoiding the requirement of exhaustion of internal remedies.

68. In the present case, the Tribunal similarly rejects the notion that any pending claim before the REO, which is not a formal internal body for the purposes of fulfilling the requirement of exhaustion of internal remedies as set forth in Article II(2) of the Tribunal's Statute, would toll the time to submit an application on a separate claim for which the Applicant had already exhausted internal remedies. In other words, the fact that the Applicant brought her allegations of "Exclu[sion] and Marginaliz[ation] as an Iraqi Female Staff Member" to the REO has no effect on the timing of her Non-Extension Decision claim. In this respect, the Tribunal recalls the 5 April 2024 email from the REO to the Applicant, which noted to her the timelines for submission of an application to the Tribunal regarding the Non-Extension Decision.

69. In view of the above, the Tribunal finds that the Non-Extension Decision claim is untimely.

The Performance Management Decisions

70. In her 4 November 2022 Request for Review with PRS, the Applicant also challenged an "unfounded" Performance Evaluation that resulted in an OTI plan. On 3 April 2023, the PRS Panel partially dismissed the Request for Review, finding that the Applicant's claim regarding the Performance Management Decisions fell outside PRS jurisdiction under Staff Rule 9.03, paragraph 7.04(h). The PRS Panel decision informed the Applicant that, if she was "dissatisfied with the outcome of the Peer Review process, *the next step regarding the dismissed claims* would be recourse to the Tribunal, which has its own rules and procedures for the filing of claims." (Emphasis added.)

71. The question here is whether the Applicant should have filed this claim with the Tribunal within 120 days of the PRS Panel decision to dismiss the claim for lack of jurisdiction.

72. The Tribunal held in *FM (Preliminary Objection)*, Decision No. 631 [2020], para. 107, that "it considers that a decision by PRS to dismiss a claim for jurisdiction has a similar essence of

exhaustion of the PRS process as a decision to dismiss a claim on the merits." As stated in Article II(2)(ii)(b) of the Tribunal's Statute, a staff member has 120 days to file a claim with the Tribunal after "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."

73. The Applicant received notice of the dismissal of her Performance Management Decisions claim by PRS on 3 April 2023. Therefore, she had 120 days to raise this claim with the Tribunal, or by 1 August 2023. The Applicant did not file the present Application until 20 July 2024, nearly a year later.

74. The Tribunal also observes that there is nothing in the record to indicate that the Applicant availed herself of either the Administrative Review (AR) or Performance Management Review (PMR) processes with respect to her Performance Management Decisions claim. Pursuant to Staff Rules 9.06 and 9.07, staff members seeking formal reviews of performance management decisions must avail themselves of AR and PMR prior to submitting an application with the Tribunal. Reviewing the record, the Applicant made no such effort regarding the Performance Management Decisions claim.

75. Staff Rules 9.06, paragraph 3.05, and 9.07, paragraph 3.10, provide that a staff member "may also report allegations of misconduct, including retaliation, discrimination or harassment in connection with Performance Management Decisions, to the Office of Ethics and Business Conduct (EBC)." In this respect, the Tribunal notes that, between August and October 2022, the Applicant was engaged with EBC regarding her claims and specifically referred to the above provisions of Staff Rules 9.06 and 9.07. Therefore, the Applicant's claim that she was misled with regard to the internal mechanisms lacks merit.

76. The Tribunal also notes that, on 27 October 2022, EBC emailed the Applicant, writing:

> We note that the incidents you cite as harassment, discrimination and unwelcome behavior relate to the administration of your work program, performance, allocation of tasks and duties, and the nature and subsequent cancellation of your fixed term contract. EBC does not find that there is sufficient evidence to proceed with a misconduct review at this time.

77. The Tribunal considers that the Applicant had 120 days from that date, or until 24 February 2023, to avail herself of the Tribunal regarding EBC's dismissal. As the Applicant did not file her Application until 20 July 2024, and as the Applicant did not timely avail herself of the Tribunal following the PRS Panel's dismissal on 3 April 2023, the Tribunal finds that the Performance Management Decisions claim is untimely.

78. Moreover, since the Performance Management Decisions were not challenged before the competent internal bodies pursuant to Staff Rules 9.06 and 9.07, the Application, to this extent, is not admissible for failure to exhaust internal remedies.

The Allegations of Misconduct

79. In the Applicant's 4 November 2022 Request for Review with PRS, she alleged that she was subjected to misconduct, including "unwelcomed and offensive patterns of conduct," and "discrimination and racism" that allegedly created an "unhealthy work environment." On 3 April 2023, the PRS Panel partially dismissed the Request for Review, finding that the Applicant's claims regarding the Allegations of Misconduct fell outside PRS jurisdiction under Staff Rules 3.00 and 9.03. The PRS Panel decision informed the Applicant that, if she was "dissatisfied with the outcome of the Peer Review process, *the next step regarding the dismissed claims* would be recourse to the Tribunal, which has its own rules and procedures for the filing of claims." (Emphasis added.)

80. The question here is whether the Applicant should have filed this claim with the Tribunal within 120 days of the PRS Panel decision to dismiss the claim for lack of jurisdiction. The Tribunal will first consider, though, the effect of the Applicant's engagement with the REO on the *dies a quo* for her claim regarding the Allegations of Misconduct. In this respect, the Tribunal notes the Applicant's assertion that she "approached the REO, as one of the internal justice formal mechanisms available to [her], to raise the exclusion and marginalization claim that was dismissed on April 3rd, 2023" in order to exhaust all internal remedies pursuant to Article II of the Tribunal's Statute.

81. Throughout its jurisprudence, the Tribunal has also underscored the importance of the requirement of exhaustion of internal remedies, which "ensures that the management of the Bank shall be afforded an opportunity to redress any alleged violation by its own action" (*Brar (Preliminary Objection)*, Decision No. 647 [2021], para. 65) and "greatly assists the Tribunal in promptly and fairly disposing of the cases before it" (*Berg*, Decision No. 51 [1987], para. 30).

82. The Tribunal has previously decided that "[e]xhaustion of internal remedies means formal remedies and includes timely recourse to the Appeals Committee [now PRS]." *Rittner* [2005], para. 36.

83. In this regard, in *Moss (Preliminary Objection)*, Decision No. 571 [2017], para. 64, the Tribunal stated that it has

> frequently held that the reference to "all other remedies within the Bank Group" in Article II(2) of the Statute denotes formal remedies; this requirement is not satisfied by meetings with Human Resources Officers, Country Directors and other staff, or participating in mediation. *See Lysy*, Decision No. 211 [1999], para. 46; *Dey*, Decision No. 279 [2002], para. 20; *Islam*, [Decision No. 280 [2002],] para. 19; *Motabar*, Decision No. 346 [2006], para. 12; *Ampah* [*(Preliminary Objection)*, Decision No. 522 [2015],] para. 63.

See also Malik, Decision No. 333 [2005], para. 34; *Vick*, Decision No. 295 [2003], para. 27. The Tribunal further clarified in *Ampah (Preliminary Objection)* [2015], para. 64, that "consultation with the Ombudsman, though one of the conflict resolution avenues available to staff members, is not a substitute for the filing of a formal grievance with the Appeals Committee/PRS or the Tribunal."

84. The Tribunal notes the Bank's submission that the REO is not a formal dispute resolution mechanism. The Bank contends that, while staff may bring racial discrimination claims to the REO, the office lacks investigative or adjudicative power over formal allegations, which must be addressed through appropriate channels.

85. Staff Directive 3.00, paragraph 5.03, provides that the REO "reviews all allegations of racism and related discrimination in the workplace or in connection with work at the World Bank

Group involving a World Bank Group Staff Member and which are brought to EIJ." Staff Directive 3.00, paragraph 5.05, provides:

> In consultation with the person allegedly affected by the concerned behavior, […] the REO may take one or more of the following actions or other steps deemed appropriate:
>
> (a) discuss the alleged incident(s) with the Manager(s) of the alleged offender and, where appropriate, advise on remedial and protective measures;
>
> (b) remind the alleged offender of the applicable World Bank Group values, policies and procedures and inform them that if the allegations are proven to be true, their behavior may be inconsistent with these policies and procedures;
>
> (c) refer the matter to the EIJ investigation team for formal review and/or investigation under Section 8 of Staff Directive 3.07;
>
> (d) advise on available resources of the EIJ and other support services; and
>
> (e) monitor the situation after an intervention is made under paragraphs (a)–(d) above or the conclusion of a formal investigation by following-up with the person allegedly affected by the behavior, the Manager(s) and the alleged offender.

86. The Tribunal considers that the REO, much like the Ombudsman, is not a channel which furnishes internal remedies, and thus engagement with the REO is not required to exhaust internal remedies. Nor does engagement with the REO preserve a claim that has already been through the formal dispute resolution process.

87. As provided in Staff Directive 3.00, paragraph 6.01, the Investigations Unit of EIJ (formerly EBC) is the body competent to review allegations of misconduct against staff members such as harassment and discrimination. The Tribunal recalls that, between August and October 2022, the Applicant was engaged with EBC regarding the "harassment" part of her case and that, on 27 October 2022, EBC informed the Applicant that it did not find sufficient evidence to proceed with a misconduct review. The Applicant thus had 120 days from that date, or until 24 February 2023, to avail herself of the Tribunal regarding EBC's dismissal. She did not do so.

88. With respect to the REO, the Tribunal considers that the Applicant's engagement with the REO following the PRS Panel's dismissal of the Allegations of Misconduct claim did not toll the time for the Applicant to bring this claim before the Tribunal. Recalling the Tribunal's holding in *FM (Preliminary Objection)* [2020], para. 107, "a decision by PRS to dismiss a claim for jurisdiction has a similar essence of exhaustion of the PRS process as a decision to dismiss a claim on the merits."

89. The Applicant received notice of the dismissal of her Allegations of Misconduct claim by PRS on 3 April 2023. Therefore, she had 120 days to raise this claim with the Tribunal, or until 1 August 2023. The Applicant did not file the present Application until 20 July 2024, nearly a year later. Accordingly, the Tribunal finds that the Allegations of Misconduct claim is untimely.

Claims against PRS

90. The Applicant has further challenged the procedural decisions of the Peer Review Secretariat, stating that it

> was inglorious 2.1) as it was built on forged documents submitted by the Delegated Responding Manager […] in connection with putting [her] on OTI, 2.2) as it was built on the dismissal of crucial confessions occurred during the Hearings, and 2.3) as it was not taken into consideration a number of related facts shared either in writing or during the Hearing Sessions by Witnesses.

91. The Applicant's claims in this regard pertain to the evidence considered by PRS in its review of the Non-Extension Decision. The Tribunal recalls that the PRS Panel issued its recommendation to the MNAVP on 31 January 2024 and that, on 26 or 27 February 2024, the Applicant was notified by the MNAVP that he had accepted the PRS Panel's recommendation that her Request for Review be dismissed and that her requests for relief be denied. If the Applicant was dissatisfied with any aspect of this decision, she had 120 days from those dates to seek recourse with the Tribunal. Noting that the Application was not filed until 20 July 2024, the Tribunal finds that these claims are untimely.

WHETHER THERE WERE EXCEPTIONAL CIRCUMSTANCES TO EXCUSE THE LATE FILING OF THE APPLICATION

92. Article II(2) provides an exception to the late filing of an application and failure to timely exhaust internal remedies on the basis of "exceptional circumstances." In *BI (No. 4) (Preliminary Objection)*, Decision No. 540 [2016], para. 41, the Tribunal stated:

> Article II(2) of the Tribunal's Statute allows the Tribunal to render a claim or application admissible even if it was not filed in a timely manner, if the Tribunal decides that there were exceptional circumstances justifying the late filing.

93. Having established that the Applicant did not file her claims with the Tribunal in a timely manner, the Tribunal will next address "whether there existed in the instant case exceptional circumstances under Article II, paragraph 2 […], of the Statute of the Tribunal." *Guya*, Decision No. 174 [1997], para. 4.

94. The Applicant has the burden to show that "exceptional circumstances" exist. *See Hristodoulakis*, Decision No. 296 [2003], para. 17. In *Nyambal (No. 2)*, Decision No. 395 [2009], para. 30, the Tribunal articulated its approach to cases where "exceptional circumstances" are at issue, stating:

> 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." […] Alleged unawareness of the grievance mechanisms or ignorance of the law do not constitute such exceptional circumstances. (*Dey*, Decision No. 279 [2002], paras. 16 and 17; *Means*, Decision No. 298 [2003], para. 12.)

95. While the Tribunal recognizes that the Applicant misunderstood the internal justice mechanisms available to her, its jurisprudence on the subject demonstrates that it is ultimately an applicant's duty to "keep himself apprised of his rights and to submit his appeal in good time," and that ignorance of one's rights and the Staff Rules is no excuse for untimeliness. *Dey* [2002], para. 17. The Tribunal observes that the Applicant has not raised any exceptional circumstances.

Even so, the Tribunal concludes that there are no exceptional circumstances excusing the late filing of the Application.

96. Having found that the Applicant did not timely file her Application with respect to each of her claims and given that there are no exceptional circumstances to justify the untimeliness of those claims in her Application, the Tribunal upholds the Bank's preliminary objection.

DECISION

The Application is dismissed.

/S/Janice Bellace
Janice Bellace
President

/S/ Zakir Hafez
Zakir Hafez
Executive Secretary

At Vienna, Austria, 23 May 2025