

Summary of FR (No. 2) v. IFC, Decision No. 683 [2022]

The Applicant requested the Tribunal to review the case closing memorandum by the Ethics and Business Conduct Department (EBC) and “supplement and complete its ruling in this matter” as provided in *FR (Merits)*, Decision No. 651 [2021]. The Applicant invoked Article XIII of the Tribunal’s Statute in support of his position. The International Finance Corporation (IFC) submitted preliminary objections, contending that the Applicant’s request for revision did not meet the requirements of Article XIII of the Tribunal’s Statute.

The Tribunal first noted its statement in *FR (Merits)* [2021], para. 101: “The record suggests that the EBC process has not yet concluded. Accordingly, it would be premature for the Tribunal to pronounce on this issue.” The Tribunal observed that the record developed as part of the present proceedings demonstrated that EBC had already closed its review at the preliminary inquiry stage, notifying the Applicant of that fact on 10 August 2020.

The Tribunal further observed that EBC’s closure of its preliminary inquiry on 10 August 2020 was a triggering event which entitled the Applicant to file an application with the Tribunal challenging EBC’s decision. Pursuant to Article II(2)(ii) of the Tribunal’s Statute, the Applicant had 120 days from this event to file such an application. The Applicant did not either file an application or request an extension to file such an application within the requisite time. During the course of proceedings in his first application, the Applicant neither asked the Tribunal for permission to amend the pleadings to include consideration therein of the EBC decision, nor did he bring the decision to the Tribunal’s attention.

The Tribunal noted the Applicant’s concern that the EBC preliminary inquiry would evade review. The Tribunal observed that, to be receivable by the Tribunal, administrative decisions must be challenged according to the jurisdictional requirements of the Tribunal’s Statute. Therefore, the lack of review of EBC’s conduct and closure of the preliminary inquiry flowed from the Applicant’s own choice to not pursue any of the avenues available to him to request review.

The Tribunal then assessed whether the Applicant had satisfied the criteria for revision under Article XIII of the Tribunal’s Statute. The Tribunal observed that the Applicant stated that he was not seeking a revision of judgment under Article XIII. The Tribunal further observed that the Applicant purported to rely on Article XIII for a purpose which has no basis in such Article: to review evidence and to supplement and complete a ruling. The Applicant failed to proffer any fact that was unknown to both himself and the Tribunal prior to its judgment and which might have had a decisive influence on the Tribunal’s judgment. Therefore, the Applicant did not meet the requirements of Article XIII.

Decision: The Application was dismissed.

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