

Summary of HF, HG, and HH v. IFC (Preliminary Objection), Decision No. 699 [2023]

The Applicants challenged the decision communicated to them on 7 February 2022 that all U.K. national staff members were liable for their share of the U.K. National Insurance Contribution (NIC) and that reimbursement on past and current NIC obligations was not possible. The IFC submitted preliminary objections to the Tribunal's jurisdiction.

The Tribunal first considered whether the Applications were timely, noting that the Applicants had 120 days from the *dies a quo* of their claims to file their Applications. The Tribunal noted that on 21 June 2010, Applicants HH and HG were emailed by the World Bank Group (WBG) Tax Office to confirm that they were liable for NICs and that the WBG would not provide any reimbursement for such obligations. Applicant HF received a similar email on 20 January 2012. The Tribunal observed that all subsequent communications to the Applicants between June 2010 and 2017 reflect a consistent WBG position with respect to U.K. nationals and their liability for NICs. The Tribunal further observed that, following the 2017 amendments to U.K. Social Security Regulations, the WBG communications were clear that there was no change with respect to the Applicants' liability as U.K. nationals residing in the U.K. for the payment of NICs.

The Tribunal was satisfied that from 21 June 2010 the WBG's position was clear and that there was no lack of clarity concerning the WBG's policy with respect to U.K. nationals residing in the U.K. It then concluded that the *dies a quo* for the Applicants' claims was the first email from the WBG Tax Office (on 21 June 2010 for Applicants HH and HG, and on 20 January 2012 for Applicant HF) informing them expressly that, as U.K. nationals residing in the U.K., they were liable for the payment of NICs and that there would be no reimbursement from the WBG in this regard. The Applicants then had 120 days from those respective emails to raise any challenges to the WBG's policy concerning the payment of social security contributions as it applied to them. The Applicants did not do so within that period. The Tribunal further noted that, even if it were to consider that the 2017 changes in the U.K. regulations constituted a new policy applicable to the Applicants, the Applicants would still be out of time as their challenge came some five years after they were notified of these amendments.

The Tribunal next declined to adopt the Applicants' request to recognize jurisdiction on the basis of an ongoing violation. Referencing the approach of the Administrative Tribunal of the International Labour Organization, the Tribunal did not accept the Applicants' contention that all quarterly tax reimbursements issued to them constitute new and ongoing violations, with each tax reimbursement setting off a new time limit for the Applicants' claims.

In view of the foregoing, the Tribunal found that the Applications were untimely and that such untimeliness obviated the necessity of considering the IFC's remaining objections.

Decision: The Applications were 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