

Summary of EO (No. 3) v. IFC, (Preliminary Objection) Decision No. 662 [2021]

The Applicant challenged the IFC's compliance with the Tribunal's judgment in *EO (No. 2) (Merits)*, Decision No. 629 [2020] in respect of the following: (i) the delay in calculating the adjustment to his Long-Term Disability payments and the failure to correctly resolve the issues with the adjustments in a timely manner; and (ii) the decision to omit the period of 1 July 2017 to 15 July 2017 when calculating his retroactive salary adjustment. The IFC submitted preliminary objections, contending that the Applicant's claims were moot and that the Tribunal lacked jurisdiction over the claims.

The Tribunal first considered whether the Applicant's claims were moot. The Tribunal noted that the Applicant challenged both the failure to implement the judgment in *EO (No. 2) (Merits)* [2020] and the delay in its implementation. Accordingly, while the Applicant did eventually receive payments for the corrected adjustments, these payments did not address the Applicant's claim regarding the manner and timeliness of the implementation of the Tribunal's judgment. It was not the case, then, that the Applicant's claim no longer had any object. The Tribunal considered that the Organizations must act with fairness when implementing Tribunal judgments and, specifically, that the Tribunal's judgments carry with them an obligation for the Organizations to implement them in a reasonable manner and within a reasonable time. Accordingly, the Tribunal found that the Applicant's claim regarding the manner and timeliness of the IFC's implementation of the Tribunal's judgment was a justiciable controversy that should be considered on the merits.

The Tribunal next considered whether it had jurisdiction over the claims. The IFC contended that the Applicant's claims did not relate to the Applicant's terms of appointment or contract of employment. The Tribunal found that such a contention cannot stand as it has jurisdiction over the implementation of its judgments under its Statute. Additionally, the Tribunal held in *Rae (No. 2)*, Decision No. 132 [1993], para. 45, that a "decision of the Tribunal, properly viewed, becomes a term of the affected staff member's employment." The Tribunal then stated that it is the sole authority and the proper forum to address whether there was unreasonableness on the part of the Organizations in the implementation of the Tribunal's judgments.

The Tribunal dismissed the IFC's preliminary objections and stated that it would consider on the merits the issue of whether there was an unreasonable manner of and delay in the implementation of the judgment in *EO (No. 2) (Merits)* [2020] and, if so, whether any remedy is warranted.

Decision: The IFC's preliminary objections were dismissed.