

## **Summary of FM v. IBRD (Preliminary Objection), Decision No. 631 [2020]**

The Applicant challenged: (i) the Bank's failure to provide her with medical support or information; (ii) the Bank's failure to provide the Applicant with a reasonable work accommodation to a non-tropical area; (iii) the non-confirmation of the Applicant's employment and the extension of her probationary period; (iv) the Bank's failure to implement its agreement to pay the Applicant in U.S. dollars (USD) in a timely manner; (v) the Bank's failure to make certain payments to the Applicant, including her salary, her Scarce Skills Premium, the Special Compensation Measure, benefits, and her resettlement costs at the time of the termination of her appointment; (vi) mismanagement of the Applicant's career; (vii) "[u]nfair and discriminatory treatment, resulting in constructive discharge"; and (viii) the denial of the Applicant's workers' compensation benefits. The Bank filed a preliminary objection to the Applicant's claims.

The Tribunal examined whether the Applicant had filed her claim that the Bank had failed to provide her with medical support or information in a timely manner, both before Peer Review Services (PRS) and before the Tribunal. The Tribunal held that the Applicant had not filed this claim in a timely manner before PRS, and she had thus not exhausted internal remedies in a timely manner. The Tribunal further held that her claim was not filed before the Tribunal in a timely manner, and that the Applicant had not alleged exceptional circumstances that occurred within the requisite time period that may have excused the late filing of her claim.

The Tribunal then examined the Bank's preliminary objection to the Applicant's claim that the Bank failed to provide her with a reasonable work accommodation. The Tribunal found that it could review the claim under Article II(1) of the Tribunal's Statute, but that the claim was not filed in a timely manner. The Tribunal dismissed the claim.

With regard to the Applicant's claim relating to the extension of her probationary period, the Tribunal held that the Applicant had stated a plausible claim that necessitated review on the merits. The Tribunal also held that the Applicant filed this claim before PRS in a timely manner, and that the Tribunal had jurisdiction over the claim.

The Tribunal found that the Applicant's claim that the Bank had failed to make certain payments to the Applicant, either in a timely manner or in USD, was properly before the Tribunal under Article II(1) of the Tribunal's Statute.

For the Applicant's claim of mismanagement of career, the Tribunal held that while the Applicant had not adduced reliable and contemporaneous proof that there were exceptional circumstances that excuse the late filing of her claim, the Tribunal would still consider the Applicant's allegations relating to alleged mismanagement of career to the extent that they were filed in a timely period before PRS.

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](http://www.worldbank.org/tribunal)

The Tribunal found additionally that the Applicant's claim of constructive discharge was filed before it in a timely manner.

As to the Applicant's challenge to the denial of workers' compensation to her, the Tribunal held that the Applicant's challenge was properly before it and accepted jurisdiction over the claim.

The Tribunal found that it could review the Applicant's challenge to her placement on Short-Term Disability (STD) and accepted jurisdiction over that claim.

**Decision:** The Tribunal upheld the Bank's preliminary objections for the claims relating to (i) the Bank's alleged failure to provide the Applicant with medical support or information and (ii) the Bank's alleged failure to provide the Applicant with a reasonable work accommodation. The Tribunal accepted jurisdiction over the claims relating to (i) the extension of the Applicant's probationary period; (ii) the Bank's alleged failure to make certain payments to the Applicant, either at all or in USD; (iii) the alleged mismanagement of the Applicant's career to the extent that the Applicant's allegations relate to the period between 2 March 2017 and 30 June 2017; (iv) the Applicant's constructive discharge; (v) the Workers' Compensation Administrative Review Panel's decision to deny the Applicant workers' compensation; and (vi) the placement of the Applicant on STD. The Bank was ordered to pay the Applicant's legal fees and costs in the amount of \$20,000.00 for the preliminary objection phase of the proceedings.