



the fsia provides exclusive venue options to sue an international organization – or does it?

Tiana A. Bey and Sofia Castillo
MSK Client Alert

April 28, 2020

practice areas

international disputes
litigation

Since the United States Supreme Court decided *Jam v. Int'l Fin. Corp.*, 139 S. Ct. 759 (2019), international organizations (as designated under the International Organizations Immunities Act of 1945 ("IOIA"))^[1] have increasingly faced litigation that can no longer be dismissed on absolute immunity grounds.^[2] These organizations now have to navigate preliminary jurisdictional defenses that they would not have normally considered or asserted before *Jam*. One such defense is "improper venue" pursuant to the venue provision of the Foreign Sovereign Immunities Act of 1976 ("FSIA"), which can result in case dismissal or transfer to a forum that an international organization defendant finds more familiar or strategically advantageous.

Two recent cases deciding venue challenges by international organization defendants after *Jam* illustrate this point: *Matos Rodriguez v. Pan American Health Organization*, No. 18-cv-24995 (S.D. Fla. Apr. 3, 2020) and *Francisco S. v. Aetna Life Insurance Co.*, No. 18-cv-00010 (D. Utah Apr. 6, 2020). The international organization defendants in both cases sought transfer of the case to the United States District Court for the District of Columbia ("District of Columbia"), but they used different procedural tools and obtained differing outcomes. The international organization in *Matos Rodriguez* asserted it had "immunity from suit ... outside the venues permitted under" the FSIA (hereinafter referred to as "venue immunity") and it won its transfer. The international organization in *Francisco*, however, failed to assert that any particular venue rule applied and instead argued that the case should be transferred based on an inconvenient forum-balancing test. That organization was denied its transfer and it likely waived its FSIA venue immunity defense by failing to raise it in its initial response to the complaint. As explained below, the differing outcomes in these cases should prompt international organizations to become acquainted with all FSIA immunity-related defenses available to them as they traverse the new post-*Jam*



the fsia provides exclusive venue options to sue an international organization – or
does it?

world where they may increasingly be sued in U.S. federal and state courts. Also, if international organizations can identify a strategic advantage in asserting a venue immunity defense, they should assert it early in their response to a complaint, or risk being foreclosed from asserting it altogether.

[View Full Alert](#)