

23, 2001 to file a petition for panel rehearing or for rehearing en banc, but the government declined to file either request. The mandate was issued seven days later, on April 30, 2001. The 90 days in which the government could have appealed to the Supreme Court for a writ of certiorari ran on June 7, 2001. See 28 U.S.C. § 2101(c) (allowing the government to petition

appealable." 28 U.S.C. § 2412(d)(1)(C)(2)(G) (emphasis added).

cases in which a final judgment has been rendered by a court of appeals, EAJA applications must be filed within 120 days of the day the court of appeals enters judgment.") (citing Myers, 916 F.2d at 671); Kolman, 392 F.2d at 58)

For all these reasons, we agree with the other circuits and "construe[] the Act's definition of final judgment' as designating the date on which a party's case has met its final demise, such that there is no longer any possibility that the district court's judgment is open to attack." Id. at 669 (internal quotations and citation omitted).

Because Al-Harbi's fee request was timely, we turn to the merits of that request.

ultimately adequate to sustain the agency's decision. See 97 F.3d at 375.

CONCLUSION

We conclude that where there has been an appellate deci-