

Summary of EK v. IBRD, Decision No. 573 [2017]

The Applicant, a former STC based in a Bank country office, challenged the HRVP's finding that the Applicant committed misconduct by violating the Bank's conflict of interest rules. The Applicant also contested the imposition of disciplinary sanctions in the form of: a) loss of future employment and contractual opportunities with the Bank Group for a period of three years; and b) the sanctions letter to remain in the Applicant's staff record for a period of three years. The Applicant argued that he was unaware of the Bank's conflict of interest rules and his conduct posed no real conflict nor did it amount to unprofessional conduct. In particular, the Applicant stated that he sought guidance from his senior manager, a Level GH Bank staff, as well as country office procurement officers who informed him that his concurrent work as an STC and a contractor on Bank-funded projects was permitted so long as the work did not involve projects he undertook as an STC. Following that advice, the Applicant engaged in Bank-funded contract work that was unrelated to his functions as an STC. The Applicant argued that as soon as he was told that his conduct may nevertheless be perceived as a conflict of interest, he relinquished his financial interest in his company which undertook Bank-contract work and ceased doing independent contract work.

The Tribunal reviewed the Bank's conflict of interest rules contained in Principle 3 of the Principles of Staff Employment and Staff Rule 3.02, paragraph 3.05, and found that they were not vague. The Tribunal observed that the location of the Applicant's STC appointment, and the individual contracts he or his company obtained, is the determining factor which transformed the conduct to a violation of the Staff Rules and the terms of his STC appointment at the Bank. There would have been no misconduct if, simultaneously as an STC, the Applicant was employed by a member country or other entity to work on a Bank-financed project in a different country, either in his individual capacity or through his company. Without obtaining a waiver for such concurrent activities, the Applicant's conduct amounted to misconduct. Nevertheless, the Tribunal considered it significant that multiple Bank staff members ill-advised the Applicant, including the Level GH Lead Environmental Specialist, staff specialized in procurement and, later, a Director-level staff member. In addition, the Tribunal considered the fact that the Applicant was a Country-office STC who stated that he did not have access to the Bank's intranet nor did he have a Bank email address until January 2016, when INT contacted him for the purposes of the investigation. Noting that the HRVP could have weighed the circumstances of this particularly complex case differently, the Tribunal however, held that due to the importance of the conflict of interest rules it would not set aside the HRVP's decision. The Tribunal called upon the Bank to consider providing staff with adequate training and information on circumstances which could give rise to a conflict of interest, and to provide them with guidance on obtaining waivers if applicable. Such training should be particularly provided to staff members who hold STC appointments in country offices, as well as those who appoint STCs. On the separate claim that the Bank owed the Applicant sums for unpaid work, in light of the Bank's failure to respond to this matter, the Tribunal ordered the Bank to pay the Applicant any sums owed to him for work already performed.

Decision: The HRVP's decision was upheld. Applicant's claims were dismissed. The Bank was ordered to pay \$7,581.25 as a contribution to the Applicant's legal fees and costs.

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