



# World Bank Administrative Tribunal Annual Report

Fiscal Year 2023

# Message from Tribunal President Mahnoush H. Arsanjani



The World Bank Administrative Tribunal, in its enduring role as the singular independent judicial forum and ultimate arbiter for addressing employment-related grievances brought forth by World Bank Group staff members, continues to make significant strides in its mission.

This annual report outlines the Tribunal’s endeavors throughout Fiscal Year (FY) 2023, shedding light on its activities, the pivotal legal issues it has grappled with, and the discernible usage trends that have emerged—each facet of which underscores the paramount significance, unwavering independence, and steadfast impartiality that characterizes the Tribunal’s operation.

Embedded in the very core of the Tribunal’s existence, the bedrock of its authority lies within the unshakable dedication to independence enshrined in the first Article of the Tribunal’s Statute. This

commitment to independence is a resounding chorus echoed by every judge within the Tribunal’s esteemed ranks. The Tribunal, to be truly effective, must not only be independent in its essence but must also be perceived as unequivocally independent to inspire the confidence of the parties who entrust it with the solemn responsibility of resolving intricate employment disputes, thereby preserving the integrity of the workplace ecosystem within the World Bank Group.

This past fiscal year, the Tribunal has significantly enriched its jurisprudential repository by delving into a myriad of issues all woven around the paradigm of ensuring fairness within the workplace, including complex issues of abuse of discretion in non-confirmation decisions and transparency and objectivity in recruitment procedures. Throughout FY 2023, the Tribunal diligently conducted its customary biannual sessions—one in November and another in May. These sessions bore fruit in the form of the closure of 19 cases filed by World Bank Group staff members, underscoring the Tribunal’s unwavering commitment to the expeditious and equitable resolution of employment disputes, thus upholding the fundamental tenets of justice and fairness within the organizational tapestry of the World Bank Group.

# Executive Summary

The World Bank Administrative Tribunal serves as the exclusive and ultimate judicial forum for resolving cases brought forward by World Bank Group staff members who allege violations of their employment contracts or terms of appointment. According to Article I, paragraph 2, of the Tribunal's Statute, the Tribunal operates as an independent judicial body, entirely separate from the World Bank Group's management. The Tribunal's independence is underscored in the Statute, with the World Bank Group obligated to guarantee and respect this independence at all times. Importantly, the decisions made by the Tribunal are final and binding, rendering definitive resolutions to the matters under its jurisdiction.

After a decade of dedicated service, Judge Burgess is concluding his term in 2023. Having served two consecutive five-year terms, he is ineligible for re-appointment as per the Tribunal's Statute. While the search for his replacement is under way, Judge Burgess continues to fulfill his duties as a Tribunal member, in accordance with Article IV, paragraph 5, of the Tribunal's Statute, which stipulates that members remain in office until they are replaced.

The Tribunal continued its dedicated efforts to raise staff awareness about the services it offers. Teaming up with the Ethics and Internal Justice Services Vice Presidency unit, the Tribunal organized a joint training and outreach initiative in West Africa, focusing on Ghana and Liberia.

The Tribunal also continued the dissemination of *The Bench*, its twice-yearly electronic newsletter, as a resource for keeping World Bank Group staff updated on the Tribunal's work and role. In FY 2023, the Tribunal resolved a total of 19 cases. All judgments, providing transparent insights into the Tribunal's decisions, are accessible online at <https://tribunal.worldbank.org>.

The predominant issues brought before the Tribunal included employment contracts, jurisdictional matters, and ethical/respectful behaviors. Notable cases involved non-confirmation decisions, probationary period evaluations, disability benefits, fairness in job selection processes, and non-selection disputes.

Applicant demographics indicated a balanced representation, with 42 percent of applicants from World Bank Group headquarters and 58 percent from country offices. Notably, female applicants accounted for 53 percent of cases, aligning closely with the World Bank Group's overall gender distribution. The Tribunal expeditiously considers cases, with an average processing time of eight months from the receipt of an application to the rendering of a judgment.

In summary, the FY 2023 annual report underscores the Tribunal's commitment to fairness, transparency, and accessibility.

## ***OVERVIEW***

The World Bank Administrative Tribunal is the only judicial forum, as well as the forum of last resort, for the resolution of cases submitted by World Bank Group staff members alleging non-observance of their contracts of employment or terms of appointment. Article I, paragraph 2, of the Tribunal’s Statute emphasizes, “The Tribunal is a judicial body that functions independently of the management of the World Bank Group. The independence of the Tribunal shall be guaranteed and respected by the World Bank Group at all times.” The Tribunal’s decisions are final and binding.

## ***WHO WE ARE***

The Tribunal is composed of seven independent judges who are nationals of different member states of the World Bank Group. The Tribunal’s Statute states that the judges “shall be persons of high moral character and must possess the qualifications required for appointment to high judicial office or be jurisconsults of recognized competence.” The Board of Executive Directors appoints judges from a list of candidates nominated by the World Bank Group President after appropriate consultation. The judges are appointed for a term of five years, renewable once.

The judges on the Tribunal in FY 2023 were Mahnoush H. Arsanjani (Tribunal President), a national of Iran; Marielle Cohen-Branche (Tribunal Vice-President), a national of France; Janice Bellace (Tribunal Vice-President), a national of the United States; Andrew Burgess, a national of Barbados; Seward Cooper, a national of Liberia; Lynne Charbonneau, a national of Canada; and Ann Power-Forde, a national of Ireland.

The Secretariat, the administrative arm of the Tribunal, is managed by the Executive Secretary. As specified by the Tribunal’s Statute, the Executive Secretary, in discharging duties, is responsible solely to the Tribunal.

## ***CASE SUMMARY***

**Caseload.** Overall, the Tribunal decided 19 cases in FY 2023. All judgments are published online and can be viewed at <https://tribunal.worldbank.org>.

**Issues Raised.** The issues most frequently brought to the Tribunal during FY 2023 related to employment contracts (47 percent), jurisdiction (40 percent), and ethical/respectful behaviors (9 percent). Notable issues addressed by the Tribunal in FY 2023 included non-confirmation claims and the opportunity to prove ability during probation, disability benefits, fairness in job selection processes, and non-selection.

**Demographics.** Some 42 percent of applicants were based at World Bank Group headquarters, compared to 58 percent of applicants in country offices. The country office–based applications now reflect a steady increase over the course of the past five fiscal years and closely align with the makeup of the World Bank Group staff. The increase may be a consequence of outreach activities designed to ensure that the Tribunal is accessible to all staff regardless of duty station.

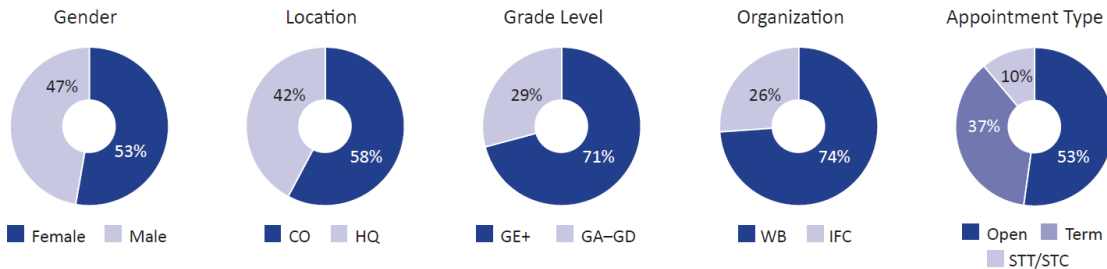
A majority of the applications in FY 2023 were submitted by female staff, which is more closely in line with the overall demographics of the World Bank Group than the applicant demographics in FY 2022, when 78 percent of applications were submitted by male staff. In FY 2023, female applicants accounted for 53 percent of the applications and male applicants accounted for the remaining 47 percent.

Of the applicants holding graded positions, 71 percent were staff members at Grade Levels GE and above. The remaining 29 percent were staff members at Grade Levels GA through GD.

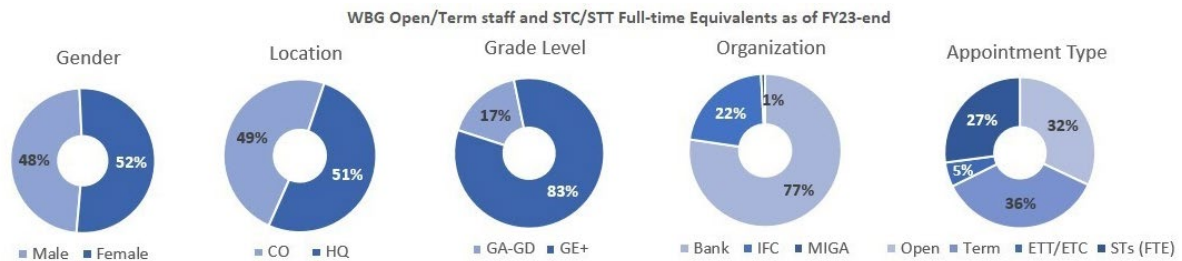
Approximately 53 percent of applicants held Open-Ended appointments, 37 percent held Term appointments, and 10 percent held Short-Term or Extended-Term appointments.

The charts below display the demographics of Tribunal applicants alongside the World Bank Group’s staff demographics for visual comparison of the data.

### Tribunal Applicant Demographics, FY 2023



### World Bank Group Staff Demographics, FY 2023



Appointment types: Open/Term, STC/STT  
 FTE for STC/STT are calculated as # days paid in FY23 divided by 220

**Average Processing Time.** The exchange of written pleadings between an applicant and respondent takes close to six months before a case is ready for the Tribunal’s deliberation. Factors that affect processing time may include the number of cases decided in one session, whether jurisdiction and merits were decided in the same judgment, whether a hearing was held, the nature and complexity of the case and the scheduling of Tribunal sessions, and whether the parties have requested an extension or a stay of proceedings. During FY 2023, on average, it took the Tribunal eight months to dispose of a case from the time it received an application to when it rendered a judgment, a decrease of two months from the average processing time observed in FY 2022.

## ***PROGRAM ACTIVITIES***

In FY 2023, the Tribunal remained steadfast in its commitment to enhancing staff awareness of available services. Collaborating closely with the Ethics and Internal Justice Services Vice Presidency unit, the Tribunal conducted a joint training and outreach mission in West Africa, specifically in Ghana and Liberia. During these sessions, a total of 83 staff members (48 from the Ghana Country Office and 35 from the Liberia Country Office) participated in comprehensive All Staff Briefing sessions covering both Ethics and Internal Justice Services and Tribunal services.

Representatives from both units actively engaged with management and diverse staff groups, fostering a deeper understanding of staff concerns. The primary goal was to raise awareness about the internal justice services provided by the World Bank Group. Throughout this initiative, meetings were held with various key stakeholders, including consultants, Respectful Workplace Advisors, Country Office Staff Association representatives, Managers/Task Team Leaders, GE+ Staff/Non-Supervisor Staff, Administrative and Client Support staff, Program Administrative staff, the Human Resources Business Partner overseeing both Country Offices, the IFC Country Representative, and the World Bank Acting Country Manager for Liberia.

## ***FAREWELL TO A MEMBER OF THE TRIBUNAL***

**Judge Burgess's term comes to an end.** After a decade of dedicated service, Judge Burgess's term is concluding in 2023. Having completed two consecutive five-year terms, he is not eligible for re-appointment under the Tribunal's Statute. While the search for his replacement is in progress, he continues to fulfill his duties as a member of the Tribunal in accordance with Article IV, paragraph 5, of the Tribunal's Statute, which stipulates that members remain in office until they are replaced.

During his tenure, Judge Burgess demonstrated a measured judicial temperament, contributing significantly to the spirit of collegiality and mutual respect among the Tribunal's judges. He served as Vice President from 2017 to 2019 and as President from 2019 to 2021, earning respect and high regard from his colleagues.

Judge Burgess joined the Tribunal in 2013, bringing with him a wealth of experience as an accomplished jurist. Prior to his tenure at the Tribunal, he served as a Justice of Appeal in the Court of Appeal of Barbados from 2010 to 2018. Before that, he held the position of judge at the Inter-American Development Bank Administrative Tribunal from 2004 to 2010, where he also served as Vice President in 2007 and 2009, and later as President in 2009 and 2010.

Additionally, Judge Burgess has held several esteemed positions throughout his distinguished career. He served as the Dean of the Faculty of Law at the University of the West Indies from 1989 to 1992 and from 1995 to 2004. He was also a Senator and Councillor in the University's Senate and Council, respectively. Furthermore, he served as a Professor of Corporate and Commercial Law and was a member of the Barbados Judicial Council. He was also a member of the Tax Appeal Tribunal in Barbados and chaired various national and regional committees.

Judge Burgess is an accomplished author, having written two books on company law, and he has published extensively on various legal issues, particularly in corporate and commercial jurisprudence.

In 2019, Judge Burgess assumed the position of Justice of the Caribbean Court of Justice, where he will continue to serve following the conclusion of his tenure with the Tribunal.

### ***NOTABLE CASES***

#### **GW v. IFC, Decision No. 686 [2023]**

**Issue:** The applicant contested the non-confirmation of his appointment and his performance rating of 2. During his probationary period, the applicant had an incident of inappropriate behavior for which he made amends. His probationary period was extended for six months. The probation extension led to an automatic performance rating of 2 as required by a new IFC procedure. Following the probation extension, the applicant’s performance and professional behaviors were lauded by his colleagues.

The Tribunal considered the appropriateness of the probation extension—taking into account the fact that the applicant had some, albeit resolved, behavioral issues preceding the extension—and assessed the validity of the performance rating of 2 under the new IFC procedure. The Tribunal further examined allegations of due process violations, including inadequate warning of the non-confirmation decision and lack of opportunity for the applicant to defend himself against the non-confirmation decision.

**Decision:** The Tribunal upheld the probation extension, noting it was precautionary and not indicative to the applicant of the possibility of non-confirmation, especially in light of the supervisor’s comment that the applicant “should not interpret [the probation extension] as a negative as his work performance has been very good.” The Tribunal determined that the IFC’s procedure for assigning a performance rating of 2 was not arbitrary or discriminatory, and considered the probation extension and corresponding rating to be appropriate. However, the Tribunal found it unfair that the applicant was not given a genuine opportunity to demonstrate his suitability during the probation extension period. The Tribunal further identified due process violations, including inadequate warning and lack of opportunity for the applicant to defend himself. Consequently, the non-confirmation decision was rescinded.

#### **GY v. IBRD, Decision No. 688 [2023]**

**Issue:** The applicant contested the non-confirmation of her appointment, maintaining that her manager failed to establish a clear work program for her and that her performance was unfairly evaluated due to changes in responsibilities. The Bank contended that the non-confirmation decision was based on issues related to accountability, quality of work, communication, and timeliness in task delivery. The applicant also asserted that she was not given a fair chance to prove her abilities, lacked proper supervision, and was denied due process in the non-confirmation decision process.

**Decision:** The Tribunal determined that the manager had clearly communicated the work program to the applicant through various means and that the work program was well-defined. The Tribunal

also found that there was a reasonable and observable basis for the non-confirmation decision, considering the issues related to the applicant's performance. Additionally, the Tribunal concluded that the applicant was given a fair opportunity to prove her abilities, received adequate supervision, and was accorded due process during the probationary period. Consequently, the Application was dismissed.

### **GS v. IBRD (Merits), Decision No. 679 [2022]**

**Issue:** The applicant contested the Bank's decision to cancel Requisition (Req) 7260, wherein she had applied for Regional Safeguard Coordinator positions, claiming she was denied a fair opportunity to compete for these positions due to lack of transparency and objectivity in the Bank's recruitment process. She challenged the selection process, specifically the target-sourcing of another candidate (Ms. A) for the position of Regional Safeguard Coordinator for Latin America and the Caribbean, arguing that the Bank's failure to document this process properly and the decision not to target-source the applicant were unfair and lacked transparency. The applicant contended that she was denied a fair opportunity to compete for positions both in Latin America and the Caribbean and in West Africa due to the Bank's inconsistent and non-transparent recruitment procedures.

**Decision:** The Tribunal found in favor of the applicant on multiple grounds.

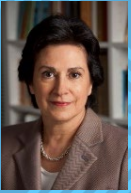
The Tribunal ruled that the Bank's failure to indicate the "backup" nature of Req7260 and the subsequent inclusion of the West Africa position under Req5537 after the closing date were inconsistent with transparency principles. The applicant was denied a fair opportunity to compete for the West Africa position.

The Tribunal criticized the lack of proper documentation and transparency in the target-sourcing process, especially in the absence of formal Bank policy. The manner in which target-sourcing was conducted deprived the applicant of a fair opportunity to compete. The Bank's decision not to target-source the applicant, combined with undisclosed language requirements, raised concerns and led to an adverse inference against the Bank.

As a result of these findings, the Bank was ordered to pay the applicant compensation equivalent to one and a half years' salary net of taxes. Additionally, the Bank was directed to cover the applicant's legal fees and costs. All other claims made by the applicant were dismissed.



## FY 2023 TRIBUNAL COMPOSITION



Mahnoush H. Arsanjani –  
President  
(Iran)



Marielle Cohen-Branche –  
Vice President  
(France)



Janice Bellace – Vice  
President  
(United States)



Andrew Burgess – Judge  
(Barbados)



Seward Cooper – Judge  
(Liberia)



Lynne Charbonneau – Judge  
(Canada)



Ann Power-Forde – Judge  
(Ireland)

## SECRETARIAT COMPOSITION



Zakir Hafez  
Executive Secretary



Devon Bromfield  
Counsel



Mohammad Edirissa Faal  
Counsel



Tara Ippoliti  
Associate Counsel



Farkanda Haseen  
Legal Analyst



Robert Newman  
Legal Assistant



Kaara Martinez  
Short-Term Consultant