



World Bank Administrative Tribunal

2019

Decision No. 598

**DZ (No. 2),
Applicant**

v.

**International Bank for Reconstruction and Development,
Respondent**

(Merits)

**World Bank Administrative Tribunal
Office of the Executive Secretary**

**DZ (No. 2),
Applicant**

v.

**International Bank for Reconstruction and Development,
Respondent**

1. This judgment is rendered by the Tribunal in plenary session, with the participation of Judges Mónica Pinto (President), Andrew Burgess (Vice-President), Mahnoush H. Arsanjani (Vice-President), Abdul G. Koroma, Marielle Cohen-Branche, and Janice Bellace.
2. The Application was received on 6 December 2017. The Applicant was represented by Stephen Schott of Schott Johnson, LLP. The Bank was represented by Ingo Burghardt, Chief Counsel (Institutional Administration), Legal Vice Presidency.
3. The Applicant challenges the (i) 7 November 2016 decision of the Vice President, Human Resources (HRVP) that she is ineligible for Retiree Medical Insurance Plan 1 (RMIP-1) benefits; (ii) 28 December 2016 changes to Staff Rule 6.12 that were retroactively made effective to September 2000; (iii) Bank's failure to inform staff of changes to the 1998 and 2000 versions of Staff Rule 6.12; and (iv) decisions of internal investigative units, the Office of Ethics and Business Conduct (EBC) and the Integrity Vice Presidency (INT), as well as the Internal Justice Services (IJS) Coordinator and the Managing Director and World Bank Group Chief Administrative Officer (MDCAO), not to investigate, review, or take other steps necessary to address her allegations of manipulation, interference, and bias in Peer Review Services (PRS) Request for Review No. 338, and subsequent amendments to Staff Rule 6.12.
4. The Bank raised a preliminary objection to the admissibility of certain claims in the Application. The Tribunal rendered its judgment on the preliminary objection in *DZ (No. 2) (Preliminary Objection)*, Decision No. 590 [2018]. The Tribunal upheld the Bank's preliminary objection on the Applicant's claims concerning RMIP-1 benefits and amendments to Staff Rule 6.12. However, the Tribunal found that it has jurisdiction over the Applicant's challenge of

decisions not to investigate her claims of manipulation, interference, bias, and potential misconduct. This judgment addresses the merits of these claims.

FACTUAL BACKGROUND

5. The historical background of this case is contained in *DZ (No. 2) (Preliminary Objection)*.
6. On 29 February 2016, the Applicant submitted a request for review with PRS challenging the Bank's determination that she was ineligible to participate in the RMIP-1 upon her retirement.
7. On 6 October 2016, a PRS Panel hearing was held.
8. On 25 October 2016, the Applicant contacted the PRS Secretariat to inquire about the outcome of the hearing. According to the Applicant, she was informed orally and in writing that the Panel's report was completed and approved by all three PRS panelists as of that date. The Applicant asserts that she was informed that the report "could be transmitted to the HRVP, first on 26 October, then 27 October and then on 28 October." The Applicant states that she later learned that the report was being revised.
9. On 1 November 2016, the Panel's report was issued and transmitted to the HRVP.
10. On 7 November 2016, the Applicant received a letter from the HRVP denying her claims and reconfirming HR's decision that the Applicant was ineligible for RMIP-1 benefits upon retirement.
11. On 5 January 2017, the Applicant met with two EBC investigators.
12. On 3 February 2017, one of the EBC investigators the Applicant met with on 5 January 2017 sent her an email. He referenced the meetings the Applicant held with EBC and a one-on-one meeting she held with the Manager of the EBC investigations unit. The Applicant was informed that, having reviewed the oral information and follow-up documentary material she

provided, EBC did not consider the issues she presented to fall within its ambit as EBC's "jurisdiction extends to allegations of misconduct related to Staff Rule 3.0[0]." The EBC investigator acknowledged that the Applicant held a different view.

13. The EBC investigator told the Applicant that "the World Bank Administrative Tribunal is also a unit [...] in which [she could] present [her] issues." Noting the Applicant's concerns about the financial impact associated with a case before the Tribunal, the EBC investigator stated that he was aware, "in other unconnected cases, that the [Staff Association] has, on occasion, assisted staff financially with the costs in connection with their WBAT matters."

14. On 16 March 2017, the Applicant met with the then Vice President of EBC (EBCVP).

15. On the same day, the Applicant sent the EBCVP an email thanking him for meeting with her. The Applicant reiterated her disappointment that EBC found that none of the matters she raised about "(1) the integrity of the PRS process, (2) HR's unilateral reduction of retiree medical benefits (for potentially hundreds of staff), or (3) HR's changes to Staff Rules without due process to staff [...] to be within its mandate." The Applicant raised to the EBCVP her concern that HR had surreptitiously made changes to Staff Rule 6.12 that reflect the arguments it made during the PRS process. The Applicant expressed that she looked forward to hearing from an EBC staff member on her allegations regarding the changes to Staff Rule 6.12.

16. On 20 March 2017, the Applicant met with staff members of the Integrity Vice Presidency's Internal Investigations Unit (INTSC).

17. On 27 March 2017, an INTSC investigator contacted the Applicant stating:

From our March 20, 2017 meeting and your March 21, 2017 follow up email, we understand that you allege that the Peer Review Services (PRS) process addressing your complaint about non-transparent changes to retiree medical benefits under Staff Rule 6.12 was likely interfered with and was biased. We also understand that after having received an adverse decision from PRS, you raised these concerns with various units in the Internal Justice Services (IJS). You shared with us that you do not believe that the IJS appropriately addressed your concerns, and that [the] Office of Ethics and Business Conduct (EBC) declined to investigate them, and instead

advised you to appeal your case to the Administrative Tribunal (WBAT). The Staff Association (SA) similarly advised you to appeal to the WBAT.

You explained to us that you do not want to appeal to the WBAT, as you deem it to be a burdensome and costly process. You also note that from your point of view the IJS is not willing to defend staff rules that would benefit many staff members, and that now INT is the “end of the line” to address these issues.

18. The INTSC investigator reiterated to the Applicant a message conveyed during their 20 March 2017 meeting, namely that INTSC investigates forms of misconduct relating to fraud and corruption under Staff Rule 8.01. The Applicant was told:

Based on our conversation, your email and the attendant documents you provided and which we reviewed, your allegations about a flawed and improper PRS process and alleged non-transparent changes to a staff rule do not fall within INT’s mandate to investigate under Staff Rule 8.01. However, the WBAT is tasked with reviewing allegations of “non-observance of the [staff member’s] contract of employment or terms of appointment,” which can include reviewing both the process and the decision arising from a staff member’s use of the PRS.

19. On 27 March 2017, the Applicant sent the EBCVP a follow-up email.

20. In April, the Applicant contacted the IJS Coordinator.

21. On 20 April 2017, the IJS Coordinator sent the Applicant an email message relaying the IJS Coordinator’s conversation with the Office of the MDCAO about the Applicant’s concerns. The IJS Coordinator informed the Applicant that “[t]he concerns you raised were discussed and it has been concluded that the only internal forum available to you to address your concerns is the Administrative Tribunal.”

22. On 25 April 2017, the Applicant contacted the IJS Coordinator asking to know who reviewed the issues she raised and whether the MDCAO himself received the materials she provided. The Applicant reiterated her concerns to the IJS Coordinator inquiring whether the MDCAO was informed of these concerns.

23. On the same day, the IJS Coordinator responded to the Applicant noting that she had discussions about the Applicant's concerns with the "MDCAO's Office," and the response was that the Applicant should "seek recourse for these concerns through the proper administrative channel [which] is the Administrative Tribunal." The IJS Coordinator reiterated this advice to the Applicant on 28 April 2017.

24. On 4 May 2017, the Applicant sent the EBCVP an email message noting that she met with two EBC investigators on 7 April 2017 as per his suggestion. The Applicant reiterated her concerns as follows:

- (1) [M]y PRS #338 Report shows likely interference by HR, violating SR9.03 Peer Review Services. Since PRS Secretariat and others would have had to agree to let this happen, I believe this impacts the integrity of all PRS appeals and the IJS [.]
- (2) [P]er PRS #338, HR has unilaterally reduced retiree medical benefits (RMIP 1) for former LTC/LTTs, ignoring multiple staff rules [.]
- (3) HR (and LEG?) made changes to SR6.12 in prior years (1998 and 2000), in a manner that obscured key changes from affected staff [.]
- (4) SR6.12 was changed again in December 2016, with retroactive effectiveness to September 2000, also without informing or consulting staff. At least one change came directly from the weak position of HR when pressed by Panelists in my October 2016 PRS hearing. As a result, HR (and LEG?) apparently disregarded our staff rules and ethical practices once again, to justify the retroactive cut of LTC/LTT benefits.

25. On 24 May 2017, the Applicant sent an email to the MDCAO. In her message, the Applicant alleged that HR interfered in her PRS appeal and also made a retroactive and unannounced change to Staff Rule 6.12 on 28 December 2016 with changes made retroactive to September 2000. She stated:

Throughout my discussions with just about all of the IJS offices, several acknowledged that I have documented serious issues. But they have shied away from doing anything about it. Instead, I have been actively encouraged by all to file a tribunal case, raise the matters more broadly with bank stakeholders, etc.

26. On 3 June 2017, the Applicant received an email message from the Director of Strategy and Operations in the MDCAO's Office. The Director of Strategy and Operations thanked the Applicant for sharing her experience with PRS and acknowledged her disappointment regarding the resolution of her claims through the PRS process. The Applicant was informed that she "may consider resorting to the World Bank Administrative Tribunal and seek review of the merits of [her] claims."

27. On the same day, the Applicant responded to the Director of Strategy and Operations stating:

The merits of my claim are one issue. For the record the staff rule for PRS does not enable PRS to assign a different VP or MD when there is a conflict of interest with HR. I had requested that from PRS to no avail. The much greater concern I have is the lack of integrity demonstrated in the process of my PRS Appeal. This failure reflects negatively on the entire IJS and I will continue to pursue those concerns. If [the] MDCAO is at all concerned in his oversight role, I stand ready to help address the issues in a constructive manner. It is much too important for all staff, many of whom would be rightly afraid to speak up, to just let this kind of thing go on.

28. On 7 June 2017, the Director of Strategy and Operations responded to the Applicant noting her concerns and recommended that the Applicant contact the PRS Secretariat.

29. On 6 December 2017, the Applicant submitted this Application to the Tribunal.

30. On 20 February 2018, the Bank filed a preliminary objection.

31. On 18 October 2018, the Tribunal rendered judgment on the preliminary objection. In *DZ (No. 2) (Preliminary Objection)*, paras. 92–93, the Tribunal held:

The decisions not to investigate the Applicant's allegation of external interference in the PRS process and her claim that the amendments to Staff Rule 6.12 "disregarded our staff rules and ethical practices" were managerial decisions taken by EBC, INT, and the respective IJS units which the Tribunal is within its jurisdiction to assess for reasonableness, arbitrariness, or other improper motivations. As was held in *EO*, Decision No. 580 [2018], para. 98, "[t]he Tribunal remains the only judicial body to which an aggrieved staff member can file an application, and, under Article II, paragraph 1, of the Statute of the Tribunal, the

Tribunal’s role is to review decisions taken by the World Bank Group alleged to violate a staff member’s contract of employment or terms of appointment [...].” To deny the Applicant recourse to the Tribunal to assess whether the decisions not to investigate, or otherwise take action on, her claims would amount to a denial of access to a judicial body.

[...] The Tribunal is within its powers to assess the reasonableness of decisions not to investigate the Applicant’s claims as it has done in the past. *See, e.g., DK*, Decision No. 552 [2017] (reviewing EBC’s decision not to reinvestigate the applicant’s allegations of sexual harassment against her former supervisor); *CW*, Decision No. 516 [2015] (reviewing allegations of bias and retaliation in EBC’s investigations); *BJ*, Decision No. 443 [2010] (reviewing the jurisdictional findings of the Appeals Committee, in the course of examining the Tribunal’s own jurisdiction over the applicant’s claims about the International Finance Corporation’s alleged interference in his divorce proceedings); and *AG*, Decision No. 397 [2009] (reviewing allegations of procedural irregularities by INT, including its refusal to investigate allegations of a leak of confidential information).

SUMMARY OF THE MAIN CONTENTIONS OF THE PARTIES

The Applicant’s Main Contentions

The Bank – through EBC, INT, and the Office of the MDCAO – failed to review her allegations of potential misconduct

32. The Applicant asserts that the different investigative and oversight bodies of the IJS hesitated to take action and instead deferred to the interests of Bank Management at the expense of integrity and staff fairness. According to the Applicant, she documented in detail her concern about the alleged manipulation of PRS which, she states, demonstrated disregard for the integrity of the IJS. She maintains that, even though she raised serious concerns with all units of the IJS, all she sought was “even minimal investigation and follow up of her claims,” but each of the IJS offices decided not to take action. To the Applicant, the inability of IJS representatives to follow up on her claims demonstrates “the real failures of the World Bank’s internal recourse mechanisms for staff when (i) the (financial) stakes are high for the Bank; or (ii) concerns are being raised that involve the IJS itself.”

33. The Applicant also contends that “the failures of the IJS resulted in a violation of her contract of employment which includes the Principles of Staff Employment and the Rules and

Regulations of the Bank promulgated pursuant to the Principles.” She asserts that she undertook a major share of the research or “‘leg work’ that appeared necessary to encourage EBC, INT and others to do their jobs and protect the integrity of the IJS [.]”

34. The Applicant avers that, throughout her history of invoking the assistance “owed to staff by EBC, INT and all other parties of the IJS,” she received the following common responses. First, the Applicant claims that she was told, both formally and informally, “by most of those she spoke with” that she had documented and presented “compelling evidence of improper interference by Respondent at PRS and by Respondent in changing Staff Rule 6.12.” Second, the Applicant avers that she was “repeatedly told that it would not be fruitful or beneficial to try to address such matters internally.” Instead, the Applicant states, she was strongly encouraged to raise her claims with the Tribunal. According to the Applicant, she was told that “her only real possibility for redress would be the Tribunal in order to get around HRVP. HRVP would otherwise be the recipient of any potential investigative reports – and could simply decide to ignore them [.]” Third, the Applicant asserts that she was told that her “claim of a final PRS Report which bears little/no relation to the actual Hearing or proceedings – is both believable and familiar.”

35. The Applicant requests an order to the Bank to modify the necessary investigative powers of EBC to enable independent scrutiny of ethical practices of management. She also seeks legal costs incurred by “having to bring this complaint to the Tribunal, despite [the] Applicant’s long and extensive efforts to try to avoid the financial and personal burdens of a Tribunal case by obtaining help and redress internally from the IJS [.]”

The Bank’s Response

All units treated the Applicant fairly and reasonably assessed that they lacked the jurisdiction to review the Applicant’s claims of potential misconduct

36. The Bank asserts that there has been no violation of the Applicant’s terms of appointment and her Application should be dismissed. According to the Bank, EBC, INT, and the MDCAO acted within their discretion and consistently with the Applicant’s terms of appointment in declining to investigate her claims of widespread misconduct.

37. With respect to EBC, the Bank maintains that the initial intake discussion the Applicant held with EBC investigators was comprehensive and consistent with EBC's procedures. According to the Bank, the Applicant failed to identify the alleged perpetrators of the alleged misconduct or present any evidence to explain how these individuals were involved "in the alleged plot against her and similarly situated staff or what their particular roles may have been." To the Bank, the evidence the Applicant produced was insufficient because none of the information she provided was objective or based on facts. The Bank states that the Applicant's "allegations exclusively relied on her (1) comments, and opinions about the PRS Panel's recommendation [;] (2) unofficial draft transcript of the PRS Panel's hearing; (3) summary and objectives about how [...] PRS and EBC's process should be; and, (4) Applicant's own understanding and interpretation of Staff Rules 9.03 and 6.12." The Bank avers that the Applicant "alleged generalized claims of malfeasance and collusion, while essentially challenging a policy decision taken by the Board of Directors; she failed to appropriately identify the who, where and what that occurred." The Bank maintains that EBC reasonably determined that it did not have jurisdiction over the Applicant's claims because its "jurisdiction extends to allegations of misconduct related to Staff Rule 3.0[0]."

38. Regarding INT, the Bank argues that INT acted in good faith and afforded proper process in its dealings with the Applicant. In addition, the Bank argues that INT's core function is preventing and investigating sanctionable misconduct and pursuing sanctions related to allegations of fraud and corruption in WBG-financed activities and the administration of WBG business. According to the Bank, following a review of the Applicant's case and materials, INT was transparent in its communication with her that "her allegations about a flawed and improper Peer Review Service process and non-transparent changes to a staff rule do not fall under INT's mandate to investigate."

39. Simultaneously, the Bank argues that EBC and INT acted within their discretion in deciding not to investigate the Applicant's "unsubstantiated allegations of misconduct." The Bank argues that a decision to investigate a claim of misconduct is a discretionary decision and both units do not have the discretion to engage in investigations outside the scope of their respective mandates. According to the Bank, EBC and INT reached their determinations in a reasonable manner, and were not arbitrary, discriminatory, or improperly motivated. The Bank maintains that

EBC explained the rationale for its decision to the Applicant multiple times as did INT. To the Bank, “[t]he decisions were based on an assessment of the claims and related materials, finding that they did not fall within the mandates of the units.”

40. Finally, the Bank contends that the Office of the MDCAO is not an investigatory or policy-making body and it took appropriate steps to address the Applicant’s concerns. According to the Bank, with an oversight and coordination role within the IJS, the “MDCAO can take feedback into consideration and try to connect staff with the appropriate venues.” To the Bank, the MDCAO did exactly that through the IJS Coordinator and the Director of Strategy and Operations who referred the Applicant to the Tribunal, “the appropriate forum for addressing her PRS challenge, and the IJS Coordinator opened channels of communication between Applicant and the PRS Executive Secretary.” The Bank maintains that the Office of the MDCAO “acted as a facilitator of justice, directing Applicant to the proper venue for her claims to be heard and encouraging her to further engage in discussions with the PRS Executive Secretary [...]. There was no violation of Applicant’s rights.”

THE TRIBUNAL’S ANALYSIS AND CONCLUSIONS

41. In *DO (No. 2)*, Decision No. 566 [2017], para. 36, the Tribunal held that:

Indeed, a decision to initiate investigations into allegations of misconduct is a discretionary decision, but it is one which is nevertheless subject to the Tribunal’s scrutiny of the manner in which the discretion was exercised. The Tribunal has consistently held that it will not overturn a discretionary decision unless it is demonstrated that the exercise of discretion was “arbitrary, discriminatory, improperly motivated, carried out in violation of a fair and reasonable procedure, or lack[ed] a reasonable and observable basis, constitute[ed] an abuse of discretion, and therefore a violation of a staff member’s contract of employment or terms of appointment.” See *AK*, Decision No. 408 [2009], para. 41 citing *de Raet*, Decision No. 85 [1989], para. 67; *Marshall*, Decision No. 226 [2000], para. 21; *Desthuis-Francis*, Decision No. 315 [2004], para. 19.

42. The Applicant presented EBC, INT, and the Office of the MDCAO with two issues which she claimed constituted potential misconduct: (i) changes in Staff Rule 6.12 on retiree medical benefits which were not communicated to staff; and (ii) her allegation of manipulation, bias, and

interference in her PRS Request for Review No. 338. The Tribunal already ruled in *DZ (No. 2) (Preliminary Objection)*, para. 90, that the amendments to Staff Rule 6.12 were immaterial and made to ensure “conformity between Staff Rule 6.12 and the guidance and booklet distributed to staff [.]” The Tribunal will therefore review solely the reasonableness of the decisions not to review the Applicant’s claims of manipulation, bias, and interference in PRS Request for Review No. 338.

Whether EBC’s decision not to undertake an initial review of the Applicant’s claims was an abuse of discretion or was unreasonable

43. The record shows that the Applicant met with EBC representatives on multiple occasions and was presented with the opportunity to explain her allegations both verbally and in writing, and to provide evidence of the alleged misconduct. The Applicant informed EBC investigators that she considered that an allegation of interference in the PRS process implicated a staff rule. She asserted: “To have someone interfere with them and as well as to have someone produce a bias[ed] outcome that did not take place at the actual PRS and doesn’t reflect any of what took place, that would, in my view and I think it’s pretty clear. There’s a Staff Rule on peer review services and that would violate it.” However, EBC investigators consistently informed the Applicant that a review into her claims of interference, manipulation, and bias in PRS would amount to an appeal of the PRS decision which is outside of EBC’s mandate. In particular, the Applicant was informed: “[W]e cannot isolate the alleged breach of the PRS rule that you say has been breached from the proceedings. They are intertwined. So [...] for that reason, we don’t have the competence [to] review a PRS proceeding.”

44. Staff Rule 3.00, paragraph 8.01, provides that:

If EBC receives an allegation within the scope of Section 6, “Allegations of Misconduct Addressed by EBC,” of this Rule, or if the basis for any such allegation otherwise comes to EBC’s attention, EBC shall undertake an initial review.

45. The 2012 *Guide to EBC’s Investigative Process* elaborates that, upon the receipt of an allegation of misconduct, EBC investigators first conduct an assessment of whether the “behavior,

as alleged, would constitute misconduct under Staff Rule 3.00.” If an allegation is within EBC’s mandate, the Guide provides that:

EBC may undertake an initial review to determine whether there is sufficient factual basis to proceed with further investigation. Alternatively, EBC may request that line management conduct the initial review, under the guidance of EBC.

46. During an initial review, EBC “assesses the allegation to determine whether the evidence is sufficient, credible and verifiable.” The Guide further provides that the initial review may involve interviews with witnesses and a review of documents, and that “[a]t this stage, the initial review is usually carried out without the involvement of the staff member who is the subject of the allegation.” Finally, the Guide informs staff members that:

When an allegation is submitted, as much information as possible should be provided, such as the nature of the alleged misconduct being reported, dates, times, locations, witnesses, and any other information or documentation.

47. Having reviewed the totality of the record, the Tribunal is persuaded by the Bank’s arguments that the Applicant did not provide EBC with the requisite information to support her allegations of potential misconduct in PRS Request for Review No. 338. The supporting documentation the Applicant provided to EBC contains no evidence that is suggestive of external influence or manipulation. While the Applicant named two PRS staff members she considered engaged in potential misconduct, she did not elaborate on how these individuals allegedly committed misconduct nor did she draw a nexus between her perception of a deficient PRS Panel report and actual incidents of manipulation, external interference, and bias. The fact that the PRS Panel’s report did not incorporate all of the Applicant’s own arguments is not an indicator of bias, manipulation, or external interference. The Tribunal has hitherto stated that allegations of misconduct cannot be made on the basis of conjecture or feelings. *See M*, Decision No. 369 [2007], para. 60; *Bodo*, Decision No. 514 [2015], para. 76. Considering the assessment requirement for an initial review noted in EBC’s Guide, the Tribunal finds that the Applicant failed to support her allegations with “sufficient, credible and verifiable” evidence and the decision not to conduct an initial review into her claims was ultimately a reasonable one.

48. However, the Tribunal disagrees with EBC's interpretation of Staff Rule 3.00, paragraph 6.01, that allegations of manipulation, interference, and bias in PRS amount to an appeal of the PRS process and are beyond the scope of EBC's mandate. The Tribunal observes that the opening clause of Staff Rule 3.00, paragraph 6.01, provides a general and broad definition of misconduct, followed by a list of examples. The list is not exhaustive. In its *Guide to EBC's Investigative Process*, EBC affirms that this staff rule "outlines examples of staff misconduct under WBG policies [...]." The Tribunal finds that the acts alleged are acts which are, in and of themselves, within the scope of the definition of misconduct under the Bank's Staff Rules. To uphold the Bank's argument that a review of allegations of interference, manipulation, and bias in the PRS process is outside the mandate of the sole investigative body equipped to address such acts would leave staff members in a difficult predicament with respect to addressing genuine instances of interference, bias, or manipulation. The Tribunal considers that such claims can be reviewed by EBC without entailing an appeal of the substance of the PRS Panel's recommendation, as a review would address the acts alleged not the correctness of the Panel's recommendation. Whether or not the Applicant provided the necessary information to support her allegations is an entirely separate issue from the question of whether such allegations could be considered misconduct within EBC's scope of review under Staff Rule 3.00. There may be genuine circumstances where credible evidence is presented against a staff member engaging in bias, manipulation, and interference; in such instance, EBC may not decline jurisdiction. However, such circumstances do not exist in the present case.

Whether the decisions of INT and the Office of the MDCAO not to review the Applicant's claims were unreasonable or an abuse of discretion

49. INT's scope of review is clearly limited by Staff Rule 8.01 to allegations of misconduct involving

- a. Misuse of Bank Group funds or other public funds (e.g., donor trust funds) for personal gain of oneself or another in connection with Bank Group operations, corporate procurement, or Bank Group administrative budgets (except for travel, benefits, allowances (including tax allowances), P-Card, petty cash or Bank Group property), loans, credits, grants, or donor trust funds;

- b. Abuse of position in the Bank Group for the personal gain of oneself or another in connection with Bank Group operations, corporate procurement, or Bank Group administrative budgets (except for travel, benefits, allowances (including tax allowances), P-Card, petty cash or Bank Group property), loans, credits, grants or donor trust funds; or
- c. Fraud, corruption, coercion, collusion, or offering, receiving or soliciting bribes, kickbacks or other (e.g., in kind) personal benefits involving Bank Group financed/supported operations or corporate procurement; or embezzlement from Bank Group administrative budgets, loans, credits, grants or donor trust funds.

50. It is evident that the Applicant's claims of bias, manipulation, and interference in PRS Request for Review No. 338 are not within the scope of INT's mandate. INT's decision to decline to investigate the Applicant's allegations was therefore reasonable.

51. In addition, the Office of the MDCAO is not an investigative body. The Tribunal is satisfied that the MDCAO's Office properly interpreted its mandate and inability to investigate the Applicant's claims. Though the MDCAO's Office has oversight functions over PRS and EBC, it is unable to conduct a comprehensive review into the allegations without the assistance of investigators. According to the Bank, "[w]ith an oversight and coordination role within IJS, the MDCAO can take feedback into consideration and try to connect staff with the appropriate venues." The Applicant was repeatedly informed that her only recourse was the Tribunal. As stated clearly by the Applicant in her petitions to representatives of the MDCAO's Office and in an email directly to the MDCAO, she presented two separate issues. The first was her own separate appeal of the substance of the decision upholding the PRS Panel's recommendations to deny her claim concerning the changes to Staff Rule 6.12. This was a separate matter which the Applicant was at liberty to submit to the Tribunal. The second issue did not concern the substance of the decision she was challenging; rather it concerned her allegation of acts which, if substantiated through a fact-finding, were acts of potential misconduct under Staff Rule 3.00. Review of the latter, as stated above, was a matter within EBC's mandate.

Conclusion

52. The Tribunal finds that the allegations raised by the Applicant were within EBC's mandate under Staff Rule 3.00. However, the Applicant's evidence of alleged external interference, manipulation, and bias was not "sufficient, credible and verifiable" to merit subsequent action; hence, EBC's decision not to take action on the Applicant's claims was ultimately not unreasonable. The Tribunal further finds that INT and the Office of the MDCAO reasonably concluded that their offices did not have the mandate to review the Applicant's allegations.

DECISION

The Application is dismissed.

/S/ Mónica Pinto
Mónica Pinto
President

/S/Zakir Hafez
Zakir Hafez
Executive Secretary

At Washington, D.C., 26 April 2019