



**World Bank Administrative Tribunal**

**2025**

**Decision No. 724**

**ER (No. 5),  
Applicant**

**v.**

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

**(Preliminary Objection)**

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

**ER (No. 5),  
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 Janice Bellace (President), Seward Cooper (Vice-President), Lynne Charbonneau (Vice-President), Martha Halfeld Furtado de Mendonça Schmidt, Thomas Laker, Raul C. Pangalangan, and Joëlle Adda.

2. The Application was received on 5 May 2025. The Applicant represented himself. The Bank was represented by David Sullivan, Deputy General Counsel (Institutional Administration), Legal Vice Presidency. The Applicant's request for anonymity was granted on 7 November 2025.

3. The Applicant claims that the Bank "deliberately failed to act on my March 8, 2023, request to appoint a suitable alternative reviewer to investigate retaliation. Despite repeated reminders that this inaction violates the International Financial Institutions Act (IFI Act), the [Bank] has willfully disregarded U.S. policy objectives enshrined in the Act."

4. On 25 September 2025, the Bank submitted preliminary objections to the Application. This judgment addresses the Bank's preliminary objections.

**FACTUAL BACKGROUND**

5. The historical context of this case is contained in *ER (Preliminary Objection)*, Decision No. 586 [2018]; *ER (No. 2) (Preliminary Objection)*, Decision No. 606 [2019]; *ER (No. 3) (Preliminary Objection)*, Decision No. 635 [2020]; and *ER (No. 3) (Merits)*, Decision No. 656 [2021]. A brief background of the facts relating to the Applicant's claim in the present Application is as follows.

6. The Applicant joined the Bank in 2004 and served as a Grade Level GE Financial Analyst on an open-ended appointment and a G4 visa.

7. In 2014, the Applicant brought what he perceived to be budget-related anomalies to the attention of the Ethics and Business Conduct Department (EBC). According to the Applicant, EBC indicated the Bank's Internal Audit Department (IAD) as the appropriate venue to report budget-related anomalies. In May 2015, an IAD audit was concluded and found no breach of Bank policies nor attempts to circumvent institutional governance arrangements but recommended improvements regarding documentation in budget decisions. In the ensuing years, the Applicant further alleged breaches of accounting principles and breaches of international and U.S. law by the Bank.

8. On 8 March 2023, the Applicant emailed an Ombudsman with the subject line "Retaliation – Request for help from Ombudsman" and stated in part, "Please find attached some information on retaliation and a few EBC staff having conflict of interest. I authorize you to reach out to HR [Human Resources] or EBC about possibility of having alternative reviewer who can initiate an investigation on my retaliation claims."

9. In his 8 March 2023 email to the Ombudsman, the Applicant attached a "Note on Retaliation" in which he stated, "I was instructed by [EBC] unit and legal to report suspected misconduct directly to my line management. I ended up being retaliated for reporting suspected misconduct directly with line managers."

10. On 26 May 2023, the Applicant emailed the Chief of Staff in the Office of the President (Chief of Staff) to follow up on his 8 March 2023 email to the Ombudsman. In his email, the Applicant stated that he had a follow-up conversation with the Ombudsman on 25 May 2023 and that "[t]ill date HR did not [get] back to [the Ombudsman] about my request for alternative investigator," and "[c]onsistently [the Bank] has been violating various provisions of International Financial Institutions Act (IFI Act)."

11. The Chief of Staff responded to the Applicant's email on the same day and recommended that he write to the Vice President, Human Resources (HRDVP) directly for advice on the matter.

12. On 12 June 2023, the Applicant emailed the President of the World Bank Group and stated:

I am a staff from Budget department in IBRD [International Bank for Reconstruction and Development]. Over the years I had witnessed IBRD violating several International Laws and International obligations. The attached [W]ord document details the violations. I fulfill all the criteria for IBRD's whistleblowing policy.

At the instruction from US lawmakers' office, I am reaching out to US Executive Director. As an Indian citizen, through the Indian Executive Director I am reaching out to Indian government for specific actions to be taken against IBRD under various International Laws. To clarify, I do not plan to whistle blow by reporting to the media or any other external entity. I sincerely apologize to anyone in World Bank Group for any hardships this whistleblowing document may cause.

13. On 4 and 20 October 2023, the Applicant emailed the HRDVP. In his 4 October 2023 email, the Applicant stated that he "whistle blew on June 12<sup>th</sup> 2023 by raising concerns with the President and the EDs [Executive Directors] about the violation of various International Laws and International obligations by IBRD." In his 20 October 2023 email to the HRDVP, the Applicant stated in part, "I request you to kindly review the attached email about the possibility of having alternative reviewer to investigate misconduct and retaliation."

14. On 17 November 2023, the Applicant emailed the Chief of Staff and expressed "serious concerns about reporting retaliation"; he further stated that "[c]ritical evidence are getting destroyed. Therefore, I plan to bring this to the attention of HR committee of the Board and chair of audit committee." The Applicant further stated, "I fulfill necessary criteria for whistleblowing under staff rule since more than 6 months have passed from reporting the retaliation." The Chief of Staff responded to the Applicant's email on the same day and stated in part, "If you have specific actions to report, please report them to EIJ [Ethics and Internal Justice Services] in accordance with Staff Rule 8.02 (protections and procedures for whistleblowers) to ensure that the action you report is independently addressed."

15. On 21 November 2023, the Vice President, Ethics and Internal Justice Services (EIJVP) emailed the Applicant and stated:

I refer to my email yesterday where I stated that if you had evidence of retaliation or destruction of evidence, that you should contact [...] [the] Head of Business Integrity Review (BIR) in EIJ. You were also advised in your most recent meeting with EIJ in October 2023 to return to BIR with any evidence of retaliation. At that meeting, you made no reference to destruction of evidence.

We will review your draft as soon as possible for information that may be [*sic*] form the basis of a complaint that would be investigated by EBC, and note that this would be the appropriate place to lodge a complaint unless the criteria of Staff Rule 8.02 (4.02) have been met.

16. On 4 December 2023, the Applicant emailed Executive Directors of the Audit Committee and the HR Committee of the Board “to bring to your attention that consistently WBG [World Bank Group] has failed to investigate various misconduct including retaliation,” and “to request AC [Audit Committee] and HRC [Human Resources Committee] Board members to identify an Independent Investigator [...]”

17. On 11 December 2023, the Chairperson of the Human Resources Committee responded to the Applicant’s email and stated in part:

Your email [...] is well noted and I and other ED’s have been assured that this is receiving the urgent and necessary attention from all stakeholders responsible for justice in the workplace, People and Culture and investigative units responsible to bring these type of issues to finality.

18. The record indicates that, on 21 December 2023, the Chief of Staff, now the Vice President of Budget, Performance Review, and Strategic Planning (BPSVP), emailed the Applicant regarding what the BPSVP characterized as the Applicant’s disruptive behavior and expressed concern for the Applicant’s health and well-being. The BPSVP requested that the Applicant undergo a Fitness for Duty (FFD) assessment with the Health and Safety Directorate and indicated that refusing to undergo an FFD would result in placement on an Opportunity to Improve Performance (OTI) plan.

19. On 8 January 2024, EBC had an intake meeting with the Applicant. In an email of 9 January 2024, EBC stated to the Applicant that it was “follow[ing] up on our conversation regarding Case 2 which you wrote to HR requesting for external reviewer.” EBC informed the Applicant, “The fact that there is inaction on HR’s side is not misconduct and therefore this is not a matter that EBC can conduct a review. You can follow up with HR on the status of the email that you sent.”

20. On 28 February 2024, the BPSVP formally informed the Applicant of his placement on an OTI effective 4 March 2024.

21. On 20 March 2024, the Senior Vice President and Group General Counsel, Legal Vice Presidency (General Counsel) emailed the Applicant, referencing the Applicant’s 4 December 2023 email to the Executive Directors and Audit Committee members and informing the Applicant that he had advised the Executive Directors not to respond to the Applicant. He further advised the Applicant to pursue any complaints and concerns through Human Resources and the internal justice system.

22. On 22 March 2024, the Applicant responded to the General Counsel’s email and stated:

I fully understand that I can report retaliation to Ethics and this is the appropriate grievance mechanism within IBRD. Retaliation is one of the problems but IBRD’s continued non-compliance with the IFI Act is the major problem.

He further stated:

I have not been provided with a reviewer to investigate my retaliation claims, raised on Mar 8<sup>th</sup>, 2023. The manager who retaliated has already retired in Jan 2024. In the past 12 months, I have not received any proper response to my request for an alternative reviewer.

23. The General Counsel responded on the same day and stated:

Please be assured that we are well aware of your dissatisfaction with the results of your many and long efforts to achieve a resolution to your grievances that is satisfactory to you. I hope you also clearly understand our repeated reminders and requests to you to pursue your grievances through the appropriate mechanisms and processes within the Bank’s internal justice systems. Again, those systems and

processes are designed specifically to give full and fair consideration to those grievances and also to provide a result or determination with finality.

It is not appropriate to pursue other means that are not part of the Bank's prescribed processes and for several reasons: Those other means are not equipped to handle them; pursuing them undermines efficiency, consistency and the whole rationale for having a formalized and resourced Bank-wide system; it is not fair to engage other colleagues outside these systems who are unaware of – or have no role or expertise in – our grievance redress processes; and those alternatives will not produce results that resolve issues in any case, and may, in fact, hinder our normal processes.

[The Applicant], please take these messages to heart. We have requested that you do so repeatedly and we have spent many hours with you and reviewing your many communications and papers. It is clear, therefore, that more communications from us and more meetings on this point would not seem useful. For these reasons, please expect no further communications from me on this. I hope you can appreciate this.

24. On 19 April 2024, the Applicant emailed the Bank's Ethics Helpline and the Manager of Business Integrity Review, Ethics and Internal Justice (BIR Manager), regarding "suspected misconduct" and "Code of Conduct violations and retaliation by [BPSVP]." The Applicant stated in his email that "[t]he major concern I have is about the conflict of interest of managers who will review my monthly OTI status. I am worried critical evidence is likely to be concealed when OTI is reviewed in *[sic]* conducted as managers from OTI have conflicts of interest." He also stated, "[The HR Manager, Corporate Case Management (HRDCO Manager)] who the OTI names as PaC [People and Culture] (HR) is a key individual responsible for my OTI status. [The HRDCO Manager] has been procrastinating on my request for an alternative reviewer for more than a year. This is the main reason why I wrote to the entire HR and Audit Committee of the Board. OTI is punishing me for escalation to the Board."

25. On 29 April 2024, the BIR Manager responded to the Applicant's email and informed him that Business Integrity Review would not undertake a review of the allegations he raised in his 19 April 2024 email and that Administrative Review would be the proper avenue to challenge the propriety or terms of the OTI.

26. On 5 May 2025, the Applicant filed his Application with the Tribunal.

27. The Applicant states with respect to the “Date of the occurrence of the event or date of decision giving rise to the application”:

To report retaliation, I sought confidential advice from the Ombudsman under Staff Rule 8.02.3.04. The Ombudsman concluded an Ethics [*sic*] has conflict of interest. I authorized Ombudsman to reach out to VP [Vice President] of HR and Ethics on March 8, 2023 to identify suitable reviewer to investigate retaliation. The Ombudsman confirmed the VP of HR was reviewing my request. Despite multiple reminders over two years, I had not received any response to my Mar 8, 2023, retaliation complaint. Therefore, I request the Tribunal to admit this application under Article II of its Statute due to exceptional circumstances.

28. With respect to the contested decision, the Applicant asserts:

The [Bank] deliberately failed to act on my March 8, 2023, request to appoint a suitable alternative reviewer to investigate retaliation. Despite repeated reminders that this inaction violates the International Financial Institutions Act (IFI Act), the [Bank] has willfully disregarded U.S. policy objectives enshrined in the Act.

29. The Applicant requests remedies including various forms of specific performance.

30. In his Application, the Applicant sought provisional relief as follows: “I respectfully request the Tribunal, under Rule 13, to order the immediate appointment of a suitable reviewer to investigate the retaliation I reported on March 8, 2023.”

31. On 8 May 2025, the Tribunal transmitted the Application to the Bank and further sought comments from the Bank on the Applicant’s request for provisional relief.

32. On 6 June 2025, the Bank provided comments objecting to the Applicant’s request for provisional relief and asking the Tribunal to summarily dismiss the Application as devoid of all merit.

33. On 1 August 2025, the Applicant provided comments on the Bank’s request for summary dismissal.

34. On 11 September 2025, the Tribunal denied the Applicant's request for provisional relief because the Applicant failed to show that his request met the terms and purpose of Rule 13 of the Tribunal's Rules.

35. Also on 11 September 2025, the Tribunal denied the Bank's request for summary dismissal because the Bank failed to show that its request met the terms and purpose of Rule 7, paragraph 11, of the Tribunal's Rules.

36. On 25 September 2025, the Bank filed its preliminary objections to jurisdiction.

## SUMMARY OF THE CONTENTIONS OF THE PARTIES

### *The Bank's Contention No. 1*

*The Applicant's claims have already been fully adjudicated by the Tribunal*

37. The Bank asks the Tribunal to take judicial notice of the Applicant's previous Tribunal cases – *ER (Preliminary Objection)* [2018], *ER (No. 2) (Preliminary Objection)* [2019], and *ER (No. 3) (Merits)* [2021] – and the facts and decisions of the relevant judgments. It cites Tribunal precedent and asserts that the conditions necessary for *res judicata* are “that the parties are the same in both cases and the substance of the claim is essentially the same in both applications.” The Bank further asserts that, pursuant to Article XI of the Tribunal's Statute, judgments shall be final and without appeal. To the Bank, the Applicant is not raising any matters in the present Application which have not been previously presented to the Tribunal and decided.

38. The Bank stresses that “[t]here is nothing in the Application that is new to the Tribunal, even though [the] Applicant also now attempts to re-formulate his repeated claims as some sort of request for emergency relief.” In the Bank's view, that the Applicant is seeking “somewhat different relief” for facts and matters that have already been resolved by the Tribunal, and “has styled his Application as seeking some sort of emergency injunctive relief (ordering the Executive Directors to waive the Bank's immunity to apply the IFI Act), should not permit him to litigate these matters again.” The Bank submits that the Application should be dismissed.

***The Applicant's Response***

*The Applicant's claims have not previously been adjudicated*

39. The Applicant avers that he “had never reported any retaliation to [the Bank’s] established institutional mechanisms or to the Tribunal prior to March 8, 2023” and that, “[t]herefore, the Tribunal’s prior Decisions — 586, 606, and 656, all issued before 2023 — didn’t address or adjudicate retaliation.” The Applicant stresses that these Tribunal decisions “therefore cannot serve as grounds for dismissing my present application.” He submits that the principle of *res judicata* does not apply in the instant case as he “did not raise retaliation claims in the proceedings leading to those decisions, nor were such claims considered by the Tribunal.”

***The Bank's Contention No. 2***

*The Applicant's claims are time-barred, and there are no exceptional circumstances*

40. The Bank submits that, even if the Applicant was not relitigating previously decided claims, his claims would be time-barred. The Bank contends that the last decision which the Applicant is challenging occurred on 8 March 2023. Moreover, the Bank stresses that “[t]he other events [the] Applicant complains of are even less recent – his disagreement with [the Bank] relates to ITS [Information and Technology Solutions] budgets before 2019.”

41. The Bank further disputes the Applicant’s claim that, as “he has not received a response satisfactory to him from HR to his March 8, 2023, retaliation complaint, [...] no time limit at all applies to his claims.” The Bank submits that the “Applicant believes that Staff Rule 8.2.04(b)(iii) mandates that the ‘Bank provide a written status update on a misconduct complaint within six months of its submission.’” The Bank contends that accordingly “[t]his date, if missed by the Bank, therefore, would serve as the latest *dies a quo*” and the Application would still be out of time.

42. With respect to exceptional circumstances, the Bank submits that the Tribunal’s “jurisprudence demonstrates that the Tribunal takes a very narrow view on what constitutes exceptional circumstances.” The Bank avers that the Applicant’s position that, because the Bank has not taken any action on his 4 December 2023 whistleblowing complaint, he should be allowed

to appeal directly to the Tribunal under the exceptional circumstances provision does not reflect the Tribunal's jurisprudence on exceptional circumstances. To the Bank, the Applicant has presented "no extraordinary circumstances that would allow his claims to be adjudicated so far outside the Tribunal's 120-day jurisdictional time limit," and the Applicant's claims are time-barred.

### ***The Applicant's Response***

*The Application should be admissible pursuant to exceptional circumstances and is not time-barred*

43. The Applicant avers that on 8 March 2023 he reported retaliation to the Ombudsman and that while, "[u]nder normal circumstances, staff may appeal to the Tribunal only after receiving a final decision on a retaliation investigation [...] despite repeated reminders over a two-year period, [the Bank] has failed to identify a reviewer to investigate my March 8, 2023 retaliation complaint." The Applicant invokes Article II of the Tribunal's Statute and asserts that he "respectfully submitted a direct application under Article II, requesting that the Tribunal admit this case under exceptional circumstances and order [the Bank] to promptly appoint a suitable reviewer to investigate my March 8, 2023 retaliation complaint." He stresses that, as the Bank "has not communicated a final outcome of [his] retaliation complaint, an appeal under normal circumstances to the Tribunal does not apply."

44. The Applicant submits that "[t]he primary objective of Staff Rule 8.02.04 is to permit external whistleblowing—reporting outside IBRD's established institutional mechanisms—when the institution fails to take appropriate measures to remedy misconduct." In the Applicant's view, "direct reporting to the Tribunal is necessary to prevent IBRD's continued violation of the International Financial Institutions Act (IFI Act), as IBRD's internal mechanisms have proven inadequate to address retaliation and there is a risk of corrective action by the U.S. Congress in response to IBRD's ongoing breach of the IFI Act." He asserts that "[t]he Tribunal should therefore admit this application under exceptional circumstances, as despite my whistleblowing to the Board on December 4, 2023, IBRD has not taken the required institutional measures to initiate a misconduct inquiry into my March 8, 2023 retaliation complaint."

45. The Applicant avers that he has “never received any periodic update or final outcome as required under Staff Rule 8.02.3.02(b).” He submits that, “[o]n January 9, 2024, the Ethics Unit concluded that HR’s 10-month inaction (Mar 2023–Jan 2024) in responding to my March 8, 2023 retaliation complaint did not constitute staff misconduct and declined to investigate.” The Applicant stresses that his “key issue remains that no reviewer was assigned, and no intake interview occurred for over two years regarding my March 8, 2023 retaliation complaint.” To the Applicant, “[a]s there has been no written communication regarding the status or outcome of my retaliation complaint submitted on March 8, 2023, the Tribunal must accept this direct application under exceptional circumstances and reject the [Bank’s] argument that the application is time-barred.”

#### THE TRIBUNAL’S ANALYSIS AND CONCLUSIONS

46. The Tribunal observes that the Bank advances two main jurisdictional objections to the Application. It contends that the Applicant’s claims have already been fully adjudicated by this Tribunal and, further, that his claims are time-barred and no exceptional circumstances exist to excuse the purportedly late filing of the Application. The Applicant disagrees with both objections and contends that his claims have not been previously adjudicated by the Tribunal, that he is not out of time, and that the Tribunal should find that exceptional circumstances render the Application admissible.

#### WHETHER THE APPLICANT FILED HIS APPLICATION IN A TIMELY MANNER

47. Article II(2) of the Tribunal’s Statute provides the requirements for admissibility to the Tribunal. It states:

No such application shall be admissible, except under exceptional circumstances as decided by the Tribunal, unless:

- (i) the applicant has exhausted all other remedies available within the Bank Group, except if the applicant and the respondent institution have agreed to submit the application directly to the Tribunal; and

(ii) the application is filed within one hundred and twenty days after the latest of the following:

- (a) the occurrence of the event giving rise to the application;
- (b) receipt of notice, after the applicant has exhausted all other remedies available within the Bank Group, that the relief asked for or recommended will not be granted; or
- (c) receipt of notice that the relief asked for or recommended will be granted, if such relief shall not have been granted within thirty days after receipt of such notice.

48. In its jurisprudence, the Tribunal has emphasized the importance of the time limits prescribed by Article II(2)(ii). In *Agerschou*, Decision No. 114 [1992], para. 42, the Tribunal explained that the prescribed time limits are “important for a smooth functioning of both the Bank and the Tribunal.” *See also Tanner*, Decision No. 478 [2013], para. 45. The Tribunal has also observed that the “long-delayed resolution of staff claims could be seriously complicated by the absence of important witnesses or documents, and would in any event result in instability and unpredictability in the ongoing employment relationships between staff members and the Bank.” *Mitra*, Decision No. 230 [2000], para. 11. *See also GU (Preliminary Objection)*, Decision No. 675 [2022], para. 20; *GL (Preliminary Objection)*, Decision No. 666 [2021], para. 43.

49. In view of the foregoing, the Tribunal considers that the dispositive issue at this stage is whether the Tribunal has jurisdiction to review the Application on the merits. The Tribunal considers that the Application and the Applicant’s subsequent pleadings are at times unclear, and are expansive upon and repetitive of alleged facts, circumstances, and regulations which obscure the Applicant’s central claim. However, as the Tribunal has previously expressed, “it is the duty of every international tribunal ‘to isolate the real issue in the case and to identify the object of the claim,’” as “this is one of the attributes of its judicial function.” *Rittner*, Decision No. 335 [2005], para. 27. *See also HW (Preliminary Objection)*, Decision No. 715 [2025], para. 65.

50. The Tribunal considers that the Applicant’s main claim concerns allegations of retaliation which he raised with the Ombudsman in March 2023. In an email of 8 March 2023 to the Ombudsman, he stated:

This email is follow up of the conversation I had with you on Mar 6<sup>th</sup> 2023 about initiating investigation on retaliation.

Please find attached some information on retaliation and a few EBC staff having conflict of interest. I authorize you to reach out to HR or EBC about possibility of having alternative reviewer who can initiate an investigation on my retaliation claims. The following is an excerpt from Staff Rule 3.00.6.03 about alternative reviewer to investigate misconduct. If HR and EBC do not agree then I am open to EBC initiating the investigation. However, past EBC investigators may have to appear as witness to any investigation.

Over the years I felt it was very risky to report retaliation to EBC. I am copying CRO [Chief Risk Officer] who may be able to help to reduce the risk for staff facing retaliation and also help to broaden WBG's definition of retaliation.

51. The Tribunal observes that in his email to the Ombudsman the Applicant invoked Staff Rule 3.00, paragraph 6.03, which stated at the relevant time:

Except where the President or his/her designee, or the World Bank Group Human Resources Vice President, determines that an alternative reviewer is to be designated, EBC addresses matters raised under this Rule. An alternative reviewer may be any person outside of EBC, including an external reviewer from outside of the Bank Group. If the World Bank Group Chief Ethics Officer, EBC, determines that EBC has a conflict of interest in addressing a matter under this Rule, EBC refers to the World Bank Group Human Resources Vice President, the determination as to whether an alternative reviewer is to be designated to handle the matter. Where a Staff Member has grounds to believe that reporting suspected misconduct to line management and EBC subjects the Staff Member to retaliation or create[s] a likelihood that evidence relating to the suspected misconduct will be concealed or destroyed, the Staff Member may report suspected misconduct directly to the World Bank Group Human Resources Vice President, with a request that an alternative reviewer outside of EBC be designated to review the report of suspected misconduct. With respect to reports of suspected misconduct that may threaten the operations or governance of the Bank Group, the provisions of Staff Rule 8.02, "Protections and Procedures for Reporting Misconduct (Whistleblowing)" apply.

The Tribunal also observes that, at various points in his pleadings and supporting documents, the Applicant also invoked Staff Rule 8.02 concerning whistleblowing.

52. The Tribunal recalls that the Applicant asserts that, while he raised his allegations of retaliation appropriately pursuant to the Staff Rules, the Bank failed to address his claims for two years. Thus, the Applicant states in his Application with respect to the contested decision:

The [Bank] deliberately failed to act on my March 8, 2023, request to appoint a suitable alternative reviewer to investigate retaliation. Despite repeated reminders that this inaction violates the International Financial Institutions Act (IFI Act), the [Bank] has willfully disregarded U.S. policy objectives enshrined in the Act.

53. The Tribunal considers that “the real issue in the case” and “the object of the claim” is the Bank’s alleged failure to act on the Applicant’s 8 March 2023 request for an alternative reviewer to investigate his claims of retaliation. He contends that, as the Bank “has not communicated a final outcome of [his] retaliation complaint, an appeal under normal circumstances to the Tribunal does not apply.”

54. In determining the timeliness of the Application, the Tribunal recalls that pursuant to its established jurisprudence “[a] staff member has to pursue a claim within the time frame articulated by the Tribunal or other bodies, counting from the day staff members knew or should have known of the claim.” *DZ (No. 2) (Preliminary Objection)*, Decision No. 590 [2018], para. 88. *See also HY (Preliminary Objection)*, Decision No. 716 [2025], para. 65. In the instant case therefore, the Tribunal considers that the *dies a quo* must be set at the date the Applicant knew or should have known that the Bank failed to act on his 8 March 2023 request for an alternative reviewer to investigate his claims of retaliation.

55. Having reviewed the record in this case and in determining the *dies a quo*, the Tribunal observes that the Applicant repeatedly followed up with various departments and Bank authorities in pursuit of his retaliation claims and received responses. Notably, the Tribunal recalls that, in an email of 9 January 2024, EBC stated to the Applicant:

Just wanted to follow up on our conversation regarding Case 2 which you wrote to HR requesting for external reviewer. The fact that there is inaction on HR’s side is not misconduct and therefore this is not a matter that EBC can conduct a review. You can follow up with HR on the status of the email that you sent.

56. The Tribunal also recalls that, on 19 April 2024, the Applicant emailed the Bank's Ethics Helpline and the BIR Manager and stated, "[The HRDCO Manager] has been procrastinating on my request for an alternative reviewer for more than a year. This is the main reason why I wrote to the entire HR and Audit Committee of the Board. OTI is punishing me for escalation to the Board." The Tribunal further recalls that, on 29 April 2024, the BIR Manager responded to the Applicant's email and informed him that Business Integrity Review would not undertake a review of the allegations he raised in his 19 April 2024 email and that Administrative Review would be the proper avenue to challenge the propriety or terms of the OTI. The Tribunal observes that the email also stated:

We note that an OTI is a tool/measure utilized by Supervisors/Managers when there is a need to address performance concerns. We further note that your allegations against [BPSVP]/BPS management are similar in nature to allegations you previously reported to BIR, which were reviewed and determined to be unsubstantiated. You were previously notified by BIR of these outcomes.

57. The Tribunal also deems it relevant to the issue at hand that, in his submissions to the Tribunal, the Applicant states:

On December 4, 2024, [the HRDCO Manager] and [the] Budget Director, dismissed all my prior complaints, asserting that they had already been addressed through appropriate institutional mechanisms. I categorically refuted this, stating that HR had never addressed my March 8, 2023 retaliation complaint and HR had failed to appoint a suitable reviewer to initiate investigation. Despite my clarification, they disregarded my statements and coerced me to undergo a Fitness-for-Duty assessment, which constituted harassment.

58. The Tribunal also observes that, in his submissions to the Tribunal, the Applicant provided a "Timeline-Key Events Related to Retaliation" in which he also stated that, in December 2024, "HR manager and Budget Director claimed all my previous misconduct claims have been properly addressed by established institutional mechanisms. I denied and stated that HR has not responde[d] to my Mar 8, 2023 retaliation complaint. Managers recommended that I should undergo Fitness For Duty assessment."

59. The Tribunal recalls that, on 26 May 2023, the Applicant emailed the Chief of Staff to follow up on his 8 March 2023 email to the Ombudsman and stated that "[t]ill date HR did not

[get] back to [the Ombudsman] about my request for alternative investigator.” The Tribunal observes that the Applicant further stated in his email:

Yesterday [the Ombudsman] mentioned that the concerned HR manager [the HRDCO Manager] has gone on a long leave resulting in delay in HR responding to my request. I ran Cost Center Missing time report (any RM [Resource Management] staff can run this report). The report shows [the HRDCO Manager] has officially taken leave only for 7 days in the month of April. The information that [the Ombudsman] received from HR is not accurate. Consistently I had witnessed over the years several key players giving false or fraudulent information to me that contradicts reality. [...]

[The Chief of Staff] please work with HR and VP of EBC in identifying suitable investigator who can review my retaliation claim. [...] [M]anager HRDCO has conflict of interest as his team is responsible for not filing false documentation made by my line manager in my official HR records. [...]

[The HRDCO Manager] will be one of witness in my retaliation case. Hence [the HRDCO Manager] should consider recuse himself in selection of alternative investigator.

60. The Tribunal considers that, by the Applicant’s own statement in his email of 26 May 2023 to the Chief of Staff, he had been told that the HRDCO Manager was the “concerned HR Manager.” The Applicant also states that on 4 December 2024 the HRDCO Manager “dismissed all my prior complaints, asserting that they had already been addressed through appropriate institutional mechanisms,” and the Applicant states that he “categorically refuted this, stating that HR had never addressed my March 8, 2023 retaliation complaint and HR had failed to appoint a suitable reviewer to initiate investigation.” In the Tribunal’s view, from these communications the Applicant should have been on notice that the Bank had failed to take action, thus implicitly rejecting his request to investigate his retaliation claim of 8 March 2023 in the manner he requested. In view of the record, the Tribunal is persuaded that by 4 December 2024, at the latest, the Applicant knew or should have known that the Bank had failed to act on his request to appoint an alternative reviewer to investigate his retaliation.

61. Considering that the Bank did not explicitly decline the Applicant’s request for the appointment of an alternative reviewer under the Staff Rules, the Tribunal finds that, at the latest, 4 December 2024 constitutes the *dies a quo*, namely the date by which the Applicant should have

known that an alternative reviewer would not be appointed. Accordingly, the Applicant had 120 days from this date – until 3 April 2025 – to file his Application. This is the most generous date available as the *dies a quo*, and even by that standard the Application fails as untimely.

WHETHER THERE WERE EXCEPTIONAL CIRCUMSTANCES TO EXCUSE THE LATE FILING OF THE  
APPLICATION

62. Article II(2) provides an exception to the late filing of an application and failure to timely exhaust internal remedies on the basis of “exceptional circumstances.” In *BI (No. 4) (Preliminary Objection)*, Decision No. 540 [2016], para. 41, the Tribunal explained that “Article II(2) of the Tribunal’s Statute allows the Tribunal to render a claim or application admissible even if it was not filed in a timely manner, if the Tribunal decides that there were exceptional circumstances justifying the late filing.” Accordingly, having established that the Applicant did not file his claims with the Tribunal in a timely manner, the Tribunal will next address “whether there existed in the instant case exceptional circumstances.” *Guya*, Decision No. 174 [1997], para. 4.

63. The Applicant has the burden to show that “exceptional circumstances” exist. *See Hristodoulakis*, Decision No. 296 [2003], para. 17. In *Nyambal (No. 2)*, Decision No. 395 [2009], para. 30, the Tribunal articulated its approach to cases where “exceptional circumstances” are at issue, stating:

The jurisprudence of the Tribunal is well-established regarding the treatment of exceptional circumstances. In all such cases the Tribunal has followed a strict approach so as to prevent the undermining of statutory limitations. Exceptional circumstances cannot be based on allegations of a general kind but require reliable and pertinent “contemporaneous proof.” [...] Alleged unawareness of the grievance mechanisms or ignorance of the law do not constitute such exceptional circumstances. (*Dey*, Decision No. 279 [2002], paras. 16 and 17; *Means*, Decision No. 298 [2003], para. 12.)

*See also HW (Preliminary Objection)* [2025], para. 94; *HI (Preliminary Objection)*, Decision No. 700 [2024], para. 49.

64. The Tribunal recalls the Applicant's contention that "direct reporting to the Tribunal is necessary to prevent IBRD's continued violation of the International Financial Institutions Act (IFI Act), as IBRD's internal mechanisms have proven inadequate to address retaliation and there is a risk of corrective action by the U.S. Congress in response to IBRD's ongoing breach of the IFI Act." The Applicant asserts that "[t]he Tribunal should therefore admit this application under exceptional circumstances, as despite my whistleblowing to the Board on December 4, 2023, IBRD has not taken the required institutional measures to initiate a misconduct inquiry into my March 8, 2023 retaliation complaint."

65. It appears to the Tribunal that the Applicant is not invoking the provisions of the Tribunal's Statute to remedy the untimeliness of his Application. Instead, his contention is that the Tribunal should intervene to ensure resolution of his claims of retaliation and because "direct reporting to the Tribunal is necessary to prevent IBRD's continued violation of the International Financial Institutions Act." The Tribunal considers that these pleas do not excuse the untimeliness of the Application nor do they provide any basis for finding that there are exceptional circumstances to justify the delay in filing his Application.

66. Having found that the Applicant failed to timely file his Application with the Tribunal and that no exceptional circumstances exist to excuse his late filing, the Tribunal finds it unnecessary to address the Bank's preliminary objection that the Application is barred under the principle of *res judicata*.

## DECISION

The Application is dismissed.

/S/Janice Bellace  
Janice Bellace  
President

/S/ Zakir Hafez  
Zakir Hafez  
Executive Secretary

At Washington, D.C., 14 November 2025