



**World Bank Administrative Tribunal**

**2022**

**Decision No. 668**

**GO,  
Applicant**

**v.**

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

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

**GO,  
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 Mahnoush H. Arsanjani (President), Marielle Cohen-Branche (Vice-President), Janice Bellace (Vice-President), Andrew Burgess, Seward Cooper, Lynne Charbonneau, and Ann Power-Forde.
2. The Application was received on 20 September 2021. The Applicant was represented by Jeffrey A. Bartos and Megan Havern of Guerrieri, Bartos & Roma, P.C. The Bank was represented by David Sullivan, Deputy General Counsel (Institutional Affairs), Legal Vice Presidency. The Applicant's request for anonymity was granted on 1 June 2022.
3. The Applicant challenges the Bank's decision not to select him for a Senior Operations Officer position (Requisition No. 2739).

**FACTUAL BACKGROUND**

4. The Applicant is a Senior Operations Officer, Grade Level GG, in the Country Management Unit (CMU) for Benin, Côte d'Ivoire, Guinea, and Togo (AWCCI). He is based in Washington, D.C. The Applicant joined the World Bank Group (WBG) in November 1999 as an Education Specialist with the South Asia Sector Units, Education Sector Unit, and has held multiple roles in different units of the WBG throughout his career.
5. On 1 October 2018, the Applicant was appointed to a Senior Operations Officer position in the Operations Policy & Country Services Vice Presidency, the position he held at the time of the contested decision.

*Senior Operations Officer position, Requisition No. 417*

6. On 22 August 2018, a Senior Operations Officer position (Req. No. 417) for Cameroon was posted in the CMU for Angola, Cameroon, Equatorial Guinea, Gabon, and São Tomé and Príncipe (AFCC1).
7. On 6 September 2018, Ms. Y, then Country Director for the Cameroon CMU, and hiring manager for the Senior Operations Officer position (Req. No. 417), emailed the Applicant encouraging him to apply for the position after the Applicant contacted her to express his interest in working in operations in the Africa region.
8. The Applicant subsequently applied for the Senior Operations Officer position (Req. No. 417) and was shortlisted.
9. On 16 November 2018, the Applicant was interviewed by the Selection Advisory Committee (SAC) for the position. Ten days later, on 26 November 2018, the Applicant took a written test and had a telephone interview with Ms. Y.
10. On 19 December 2018, Ms. Y shared a written reference for the Applicant from his former manager with a Senior Human Resources (HR) Business Partner in HR Client Services (Senior HR Business Partner), via email. The email, entitled “Strictly confidential,” stated:

Dear [Senior HR Business Partner],

As per our discussion this morning, here is the feedback from [the former manager]:

Dear [Ms. Y], happy to chat, but the short answer is that I think [the Applicant] would be a good fit for this type of position, having worked in a country as [Resident Representative], and in the FO [front office] on corporate, he understands what is needed. It would also take him back closer to operations which is good leverage of his TTL [Task Team Leader] work. [The Applicant] did a solid job for me as Special Assistant, but it was not the ideal fit with short deadlines and focus on corporate detail. But he was very good with other [VPU (Vice Presidential Unit)]

staff and teams and collaborated effectively. If I was looking for a [Senior Operations] Officer in [the South Asia Region], I would definitely consider him.

11. On 5 January 2019, Ms. Y emailed the Applicant, stating:

First of all let me wish you a healthy, happy, and successful 2019. I wanted to thank you for your interest in the Senior Operations Officer position for AFCC1. Please note that Req[.] 417 has been canceled. The position will be reopened after the selection of the new Country Director for AFCC1.

12. On 28 January 2019, according to the Applicant, he had a telephone conversation with Ms. Y who informed him that the reason for canceling the Senior Operations Officer position (Req. No. 417) was to allow her successor to select the next Senior Operations Officer.

*Senior Operations Officer position, Requisition No. 2739*

13. In late April 2019, the Senior Operations Officer position for Cameroon was re-advertised under Req. No. 2739, with a closing date of 6 May 2019. The Applicant applied for this position on 24 April 2019.

14. On 28 June 2019, the SAC for the Req. 2739 position met and agreed on a shortlist of six candidates, including the Applicant. A Program Leader in the Director AFR [Africa] Infrastructure unit chaired the SAC (SAC Chair).

15. On 29 June 2019, the incoming Country Director for the Cameroon CMU (Country Director) and Ms. Y, the outgoing Country Director, cleared the shortlist for the position.

16. On 1 July 2019, the incoming Country Director was officially appointed Country Director of the Cameroon CMU. Prior to his appointment, the Country Director had reached out to colleagues within the Bank in search of additional candidates for the Senior Operations Officer position (Req. No. 2739).

17. On 4 July 2019, the Country Director received a WhatsApp message from the Country Director for the Mali CMU stating, “I spoke with [Ms. X, an Operations Officer working in the Africa Region]. It is OK to send her the link. She is very interested. For the moment, I have only received positive feedback however I am waiting for more. Cheers.” The Country Director replied stating, “Thank you [...]. I will follow up.”

18. On 5 July 2019, the Country Director informed Ms. Y, the SAC Chair, and others on the SAC by email that he wanted to add Ms. X to the shortlist for the Senior Operations Officer position (Req. No. 2739).

19. On 17 July 2019, the SAC reconvened and replaced one of the shortlisted candidates with a new candidate, Ms. X, who was added following the Country Director’s email. On the same day, the SAC Chair wrote to the Country Director stating, “The panel agrees to include [Ms. X] instead of [another shortlisted candidate] given her range of experience. However, she is a GF staff.” The SAC then finalized the shortlist and conveyed its recommendations to the Country Director.

20. On 22 July 2019, the Country Operations and Services (COS) Board cleared the shortlist. That same day, the Applicant was informed by email from HR Recruitment Services that he had been shortlisted for the position.

21. On 25 July 2019, according to the Applicant, he was invited by email for a panel interview for the Senior Operations Officer position. He stated that the email mentioned that the panel would consist of five members: the SAC Chair, a Manager, a Practice Manager, an HR Business Partner in HR Client Services (HR Business Partner), and a Program Assistant.

22. On 30 July 2019, the Applicant was interviewed for the Senior Operations Officer position.

23. Sometime after 30 July 2019, the Interview Report was finalized and sent to the Country Director. The Interview Report stated that the panel consisted of the SAC Chair, Manager, Practice

Manager, HR Business Partner “(for 3 interviews),” and Senior HR Business Partner “(for 3 interviews).” With regard to the recommended candidates, the Interview Report stated:

In summary, the panel agreed that the top candidate for this position is [Ms. A]. The panel recommends for the CD [Country Director] to further interview [Ms. A] and [Ms. X] for his final decision. Should the CD wish, he may also consider [the Applicant], however the Panel’s considerations mentioned in the summary below should be taken into account.

With regard to the Applicant, the Interview Report stated in part:

Although [the Applicant’s] interview responses demonstrated he could fill this role; in fact, [the Applicant] had previously interviewed for the position and was the top candidate in the previous round. However, the panel understands that references obtained were not favorable. In this interview, some of [the Applicant’s] answers sounded like he was reading from a book. He equally came through as someone who may not run with the agenda of the CD, but would be tempted to push his own views to the CM [Country Manager]. However, the panel thought he could be given the opportunity to go to the next level if the CD, with full understanding of this background (possibly with additional crosscheck of references), still wants to talk to him. Again, it is noteworthy that he had interviewed for [the] same role before and was not selected, thus an interview with the CD might create expectations that might not be met.

24. On 9 September 2019, the Applicant emailed the Senior HR Business Partner about the status of the selection process in Req. No. 2739.

25. On 10 September 2019, a Manager in HR Client Services (HR Manager) emailed the Country Director asking him to “advise on your hiring decision for your HQ-based position for [Senior Operations] Officer. This vacancy has now been opened for 138 days (way above the 90 days limit) and we need to close it now.”

26. Later that day, on 10 September 2019, the Country Director informed the HR Manager that he had congratulated the selected candidate, Ms. X, on her selection for the position in Req. No. 2739.

27. On 11 September 2019, the Applicant received an email from the SAC Chair informing him that he was not selected for the position.
28. On 12 September 2019, HR closed the recruitment for the Senior Operations Officer position in Req. No. 2739.
29. On 13 September 2019, the Applicant received an email from a Senior HR Assistant in HR Client Services (Senior HR Assistant). The email was addressed to the COS Board internal email list, for information only, and contained as attachments the (i) Interview Report and (ii) resume of the successful candidate for the Senior Operations Officer position (Req. No. 2739), Ms. X. By virtue of being part of the COS Board Secretariat, hence on the distribution list, the Applicant received the email.
30. On 16 September 2019, the Applicant received an email from the Country Director, stating, “Let me thank you for taking the time [...] to apply twice to this position. I will be happy to talk to you and provide the feedback you requested.”

*Peer Review Services*

31. On 10 January 2020, the Applicant filed Request for Review No. 520 with Peer Review Services (PRS) requesting “a Peer Review Panel (PRS Panel) review of the Africa Country Director Groups, World Bank Office (AFCC1) management’s decision not to select him for the Senior Operations Officer position, Requisition (Req.) No. 2739 (Non-Selection Decision).”
32. On 1 March 2020, the Applicant was appointed Senior Operations Officer in the AWCCI CMU (then called AFCC2) based in Washington, D.C.
33. On 26 April 2021, PRS issued a document entitled “Peer Review Panel’s Report in Request for Review No. 520.”

34. The PRS Panel's report

reviewed whether the WBG acted consistently with [the Applicant's] contract of employment and terms of appointment in making the [Non-Selection] Decision. In doing so, the Panel examined whether management: (a) provided a reasonable and observable basis; (b) followed fair and proper processes[;] and (c) acted in good faith in making the Non-Selection Decision.

35. Based on the documentary and testimonial record, the PRS Panel found that the statement in the Interview Report regarding the Applicant's purported unfavorable references as well as the statement that the Applicant "was not selected" for a prior position were not factual and were misleading, respectively. Accordingly, the PRS Panel concluded that the Non-Selection Decision was not based on reasonable and observable grounds.

36. Next, the PRS Panel examined whether management followed the applicable process in making the Non-Selection Decision. The PRS Panel found that

the inconsistent composition of the SAC, the inadequate SAC Interview Report, and the lack of documentation regarding the manner in which the hiring manager made his selection decision, constituted an overall lack of transparency and fairness in the process. The Panel, therefore, found that WBG management did not follow a fair and transparent procedure in making the Non-Selection Decision.

37. The PRS Panel further considered whether the Non-Selection Decision was made in good faith or was improperly motivated. The PRS Panel noted "with concern" that the Interview Report – containing "the prejudicial and manifestly false comments" – was shared with the entire COS Board's internal email list comprising more than 20 staff members, including "some likely to be part of interview panels for other positions to which [the Applicant] may apply in the future." However, the PRS Panel found that the inadvertent distribution of the Interview Report containing confidential HR information to a distribution list that included the Applicant "constituted an unfortunate human error."

38. Finally, with regard to its bad faith inquiry – following a "full review" of the record and considering the "apparent casualness" with which the Interview Report was drafted – the PRS



Panel concluded that it “was not able to find any evidence, nor conclude, that there was any bad faith or improper motives in the Non-Selection Decision.”

39. In the “Overall Conclusion and Recommendations of the Panel” portion of the report, the PRS Panel detailed its overall conclusion and recommendation as follows:

Upon considering the totality of the evidence, the Panel did not find sufficient evidence that the Non-Selection Decision was made in bad faith, or improperly motivated. The Panel, however, determined that the Non-Selection Decision did not have a reasonable and observable basis; and that management did not follow a fair and transparent process in making that Decision. Consequently, the Panel concluded that the Non-Selection Decision breached [the Applicant’s] contract of employment and terms of appointment. Accordingly, the Panel recommends that the following relief be provided to [the Applicant]: (a) compensation in the amount of three months’ net salary at his last drawn salary; and (b) an apology letter from [the Country Director] and [the SAC Chair] to [the Applicant], with [the Vice President, Western and Central Africa], as well as Ms. [Y], in copy of the apology letter.

[...]

Given the Panel’s concerns regarding the untrue statements made about [the Applicant] in the SAC Interview Panel Report, the Panel will refer the matter to EBC [Ethics and Business Conduct Department] for further review.

[...]

The Panel stresses that the unnecessary sharing of confidential information to any group distribution list can be severely damaging to the reputations of individual staff members in the WBG. In this regard, the Panel recommends that staff members in HR, in particular, take every effort not to send sensitive information without checking the identity and function of each of the recipients of emails, and that they check whether an email attachment can or not be shared with any and all recipients under the Access to Information and Personal Data Privacy Policies. The Panel further recommends that supervisory clearance be obtained before engaging in the broad distribution of confidential HR information.

40. On 10 May 2021, PRS sent a Notice of Referral to EBC to determine whether there was a violation of the Staff Rules in connection with the Bank’s Non-Selection Decision.

41. On 17 May 2021, following the Bank's acceptance of the PRS Panel's recommendations by the Vice President, Western and Central Africa, the Applicant was paid \$42,982.50.

*EBC review and subsequent Application to the Tribunal*

42. On 20 May 2021, EBC initiated a preliminary inquiry into the Bank's Non-Selection Decision, specifically with regard to (i) willful misrepresentation of facts intended to be relied upon in connection with the "unfavorable" references portion of the Interview Report, and (ii) disclosure of confidential information following the Interview Report being emailed to the COS Board mailing list.

43. On 20 September 2021, the Applicant submitted this Application to the Tribunal contesting the "Non-Selection Decision by the Country Director in Requisition No. 2739."

44. The Applicant requests the Tribunal to order (i) two years' salary as compensation for his unfair and wrongful treatment by the Bank in the selection process, his moral injury and personal distress, and his professional harm, suffered because of the Bank's actions; and (ii) any other relief deemed fair and appropriate by the Tribunal.

45. The Applicant claims legal fees and costs in the amount of \$47,925.70.

46. On 8 December 2021, EBC closed the case at the preliminary inquiry stage "due to insufficient evidence to substantiate the allegations." The conclusion section of EBC's Case Closing Memo states the following:

EBC concluded that [the Senior HR Assistant] disclosed the information in the regular course of business as per the practice of her unit. EBC did not identify evidence to conclude that [the Senior HR Assistant] disclosed information to persons who had no need-to-know.

With regards to the allegation that the SAC report willfully misrepresented the feedback from [the Applicant's] references, EBC did not identify evidence to either

substantiate the allegation or conclude there was a violation of the Staff Rules that would warrant the submission of a report to the [HRDVP (Human Resources Vice President)] for a decision on a finding of misconduct.

Notwithstanding that EBC could not substantiate the allegations of willful misrepresentation of facts and breach of confidentiality, EBC noted the inappropriateness of including information from a previous recruitment, the failure of the SAC to ensure that the information in its reports was true and correct, and the insufficient oversight in sharing confidential interview reports with members of the Operations Board. EBC will note these omissions in a lessons-learned memo to both HR and management to ensure that appropriate safeguards in line with WBG policies and procedures are adopted to avoid similar occurrences in the future.

47. On 14 December 2021, EBC notified the Applicant of its decision to close the case.

#### SUMMARY OF THE CONTENTIONS OF THE PARTIES

##### *The Applicant's Contentions*

*The Non-Selection Decision constituted an abuse of discretion and was made in bad faith; therefore, additional compensation is warranted*

48. With regard to the Non-Selection Decision, the Applicant contends that the Bank abused its discretion and violated his contract of employment or terms of appointment in “three independent ways”: (i) failing to follow a fair and proper process, (ii) failing to provide a reasonable and observable basis for its decision, and (iii) making the decision in bad faith. The Applicant further contends that additional compensation is warranted, in the amount of two years’ salary net of taxes, “for his unfair and wrongful treatment by the Bank in the selection process, his moral injury and personal distress, as well as his professional harm suffered by the Bank’s actions.”

49. First, the Applicant contends that the Bank did not follow a fair and proper process in making the Non-Selection Decision. The Applicant contends that the PRS Panel’s determination that management did not follow a fair and proper process is correct. Specifically, the PRS Panel “found that the inconsistent composition of the SAC, the inadequate SAC Interview Report, and the lack of documentation regarding the manner in which the hiring manager made his selection

decision, constituted an overall lack of transparency and fairness in the process.” The Applicant asserts that “the successful candidate was pre-selected by [the Country Director],” the hiring manager, who “belatedly” added her to the shortlist. The Applicant asserts that, although “five members were on the selection committee, not every panelist attended each interview” and that the “panelists failed to keep contemporaneous documentation” throughout the interview process and during the creation of the Interview Report. The Applicant asserts that the SAC failed to systematically evaluate and rank the candidates against the advertised hiring criteria, and instead provided brief summaries in the Interview Report commenting on vague qualifications such as “gravitas,” “calm,” and “motivation.” The Applicant further asserts that the Country Director failed to document any reason for his hiring decision, did not document his interviews with any candidates, and did not review any references.

50. Second, the Applicant contends that the Bank did not provide a reasonable and observable basis for its Non-Selection Decision. The Applicant contends that the SAC “dishonestly justified” recommending that the Applicant not even receive an interview on the basis of non-existent “unfavorable references.” The Applicant asserts that two statements in the Interview Report were “false” and “in turn directly impacted its recommendations to [the Country Director] as the hiring manager”:

- (i) “[The Applicant] had previously interviewed for the position and was the top candidate in the previous round. However, the panel understands that references obtained were not favorable.”
- (ii) “[I]t is noteworthy that [the Applicant] had interviewed for [the] same role before and was not selected.”

With regard to the former quote, the Applicant contends that the SAC did not review any references and took no steps to investigate the references received during the first recruitment, which he contends were “favorable.” With regard to the latter quote, the Applicant contends that the recruitment was canceled and therefore no candidate was selected, making the statement that he was not selected “misleading at best.”

51. Third, the Applicant contends that the Bank made the Non-Selection Decision in bad faith and that therefore additional compensation beyond the PRS Panel's award is warranted. The Applicant contends that the Country Director acted dishonestly when he failed to express his vision for the position to the SAC, specifically in that he intended to hire a candidate with more junior qualifications than what the hiring criteria requested. The Applicant contends that the "fictional references" undercut his qualifications, which matched the hiring criteria, and provided the dishonest grounds for the Country Director "to hire the very candidate he had pre-selected for the position."

52. Last, the Applicant dismisses the Bank's assertion that additional compensation is not warranted because his career has not suffered material professional harm based on the fact that the Applicant was hired in March 2020 for a similar Senior Operations Officer position. The Applicant contends that

the PRS Report, which [the Bank] wholly endorses, concluded that [the Applicant's] career would likely experience setbacks because the Interview Report that said he had unfavorable references was carelessly sent "to more than twenty staff members, including some likely to be part of interview panels for other positions to which [the Applicant] may apply in the future." Not surprisingly, [the Applicant] continues to experience stress and anxiety over his reputation in, and future with, the Bank. The nature of the country services path places him in a position where he would continue to apply to new positions and sit for interview panels, all with the false report hanging over his head.

### ***The Bank's Response***

*The Bank concedes that there were flaws in the selection process but maintains that the Applicant has been sufficiently and adequately compensated*

53. The Bank "accepts and affirms the shortcomings identified in the PRS Panel report" relating to the Non-Selection Decision, specifically concerning "the reference checks, the composition of the interview panel, and the transmission of the Interview Report." The Bank contends that it "concur[s]" with the PRS Panel's findings, including findings relating to the question

of bad faith, and thus “will not relitigate the facts or findings relating to the Non-Selection Decision.”

54. The Bank contends that where the Bank and the Applicant “differ is on the quantum of damages.” The Bank contends that the “Applicant has not suffered material professional harm” as alleged in his Application to warrant the additional compensation he seeks – two years’ salary net of taxes – which is more than the three months’ net salary he was awarded based on the PRS Panel recommendation. The Bank acknowledges that additional compensation may be appropriate if a staff member suffered harm with respect to career prospects, reputation, and professional life, citing *Lysy*, Decision No. 211 [1999], para. 78, but contends that the Applicant has not made or attempted to make such a showing. The Bank contends that the Applicant’s “near immediate subsequent appointment” to a similar Senior Operations Officer position in March 2020, only six months after the Non-Selection Decision and disclosure of the Interview Report in September 2019, shows that the Applicant’s career has not experienced any setbacks and that “there is no reason to believe that it ever will.” With regard to the violations of the Applicant’s contract of employment or terms of appointment during the selection process, as already decided by the PRS Panel, the Bank avers that the Applicant has been sufficiently compensated for any and all harm caused as a result of the Non-Selection Decision.

#### THE TRIBUNAL’S ANALYSIS AND CONCLUSIONS

55. When the Bank advertises a position for a competitive selection process, its main objective is to “hire staff of the highest caliber” based on the criteria outlined in the vacancy notice. Staff Rule 4.01, paragraph 1.01, applicable during the relevant time, states as follows:

The Bank Group’s recruitment policy is to recruit staff members of the highest caliber through a competitive selection process based on criteria determined by the needs of the Bank Group and the requirements of the position, paying due regard to the importance of recruiting staff on a diverse basis.

56. This paramount objective of recruiting “staff of the highest caliber” is also stated in Principle 4.1(a) of the Principles of Staff Employment, which states that the Bank shall “give paramount importance to securing the highest standards of efficiency and technical competence in appointing staff members and, within that parameter, pay due regard to the importance of recruiting staff on as wide a geographical basis as possible.”

57. The Bank’s main governing document, Articles of Agreement, also states in Article V, Section 5(d), “In appointing the officers and staff the President shall, subject to the paramount importance of securing the highest standards of efficiency and of technical competence, pay due regard to the importance of recruiting personnel on as wide a geographical basis as possible.”

58. Recruitment of staff of the highest caliber is achievable when the Bank follows its applicable rules and procedure in the recruitment process, adheres to applicable HR guidance on recruitment, and conducts the selection process respecting the principles of objectivity, transparency, rigor, and diversity. *See BK*, Decision No. 444 [2010], paras. 46, 56.

59. The Tribunal has recognized that selection decisions are discretionary decisions of the Bank. The Tribunal has consistently held that it will not overturn a discretionary managerial 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[d] 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; *see also Desthuis-Francis*, Decision No. 315 [2004], para. 19.

60. In *Riddell*, Decision No. 255 [2001], para. 23, the Tribunal stated:

[N]o staff member has a right to be selected to a particular position or to be included in a list of candidates for a position. The decision to select an applicant for a particular position, or to include him or her in a list of candidates, is discretionary and the Tribunal will not overturn such a decision unless it finds that it is tainted by bias or abuse of discretion.

61. Furthermore, in *Jassal*, Decision No. 100 [1991], para. 37, the Tribunal held:

It is not for the Tribunal, in assessing the validity of the selection or non-selection of a staff member, to undertake its own examination of that staff member's record, or a criterion-by-criterion assessment of his or her qualifications. That is for the Bank to do in the first instance, subject to review by the Tribunal only for abuse of discretion. But the Tribunal is charged with determining whether the Bank's decision was the product of bias, prejudice, arbitrariness, manifest unreasonableness, or unfair or improper procedure. Thus, if the Bank's conclusion regarding the [a]pplicant's qualifications for selection [...] altogether lacks support in factual evidence or reasonable inference, that conclusion must be found to be an abuse of discretion.

62. The Applicant contends that the Bank abused its discretion and violated his contract of employment or terms of appointment in three ways: (i) it failed to provide a reasonable and observable basis for the Non-Selection Decision; (ii) it failed to follow a fair and proper process in making the Non-Selection Decision; and (iii) it made the Non-Selection Decision in bad faith. The Tribunal will examine these three main claims of the Applicant.

*Whether there was a reasonable and observable basis for the Non-Selection Decision*

63. The Applicant's main argument is that the Non-Selection Decision was not based on reasonable or observable grounds because the SAC dishonestly justified recommending that the Applicant not even receive an interview on the basis of non-existent "unfavorable" references.

64. The Bank does not refute the argument that the Non-Selection Decision lacked a reasonable and observable basis, and in fact agrees with the PRS Panel's findings in this respect.

65. The Tribunal recalls that, regarding this question of whether the Bank provided a reasonable and observable basis for the Non-Selection Decision, the PRS Panel made a number of findings.



66. As part of its inquiry into whether there was a reasonable and observable basis, the PRS Panel examined the statements that were made about the Applicant in the Interview Report – placing particular focus on the following statements:

Although [the Applicant's] interview responses demonstrated he could fill this role; in fact, [the Applicant] had previously interviewed for the position and was the top candidate in the previous round. However, the panel understands that references obtained were not favorable. [...] Again, it is noteworthy that he had interviewed for the same role before and was not selected, thus an interview with the CD might create expectations that might not be met.

67. The PRS Panel noted that the Interview Report did not mention references for any of the other shortlisted candidates.

68. With regard to the alleged unfavorable references regarding the Applicant, the PRS Panel further observed that

WBG management has the discretion to assess the qualifications of candidates who have applied for a position. The Panel noted, however, that the assessment of a candidate's pertinent qualifications and experience has to be factual. In that respect, the Panel observed that the SAC Interview Report mentioned that certain references about [the Applicant] [...] were "not favorable." However, during the Hearing, both [the Country Director] and [the SAC Chair] stated that they had not seen any references about [the Applicant]. [The SAC Chair] stated that he heard "someone" mention, apparently during the SAC deliberations, that references obtained about [the Applicant] were unfavorable; yet, he did not recall any particulars about the references nor the person who may have mentioned allegedly unfavorable references for [the Applicant]. [The Practice Manager] stated during the Hearing that she could not recall a discussion about references for [the Applicant], and she personally had not asked for them. [The Senior HR Business Partner] also could not recall whether references were mentioned or discussed during the SAC's discussions about the candidates recommended to be interviewed by [the Country Director]. During the Hearing, Ms. [Y] stated that she had collected oral and written references about [the Applicant] only during the recruitment for Req. No. 417. She stated that, according to the two references which she had received around the time of [the Applicant's] final interview with her in Req. No. 417, he was deemed to be a good fit and was expected to do well in the Senior Operations Officer position, and that she did not consider the references to be negative. The Panel found that the fact that the members of the SAC did not collect nor review any references

regarding [the Applicant] contradicted the statement in the SAC Interview Report according to which the references about [the Applicant] were not favorable.

69. With respect to the statement that the Applicant “was not selected” in the previous recruitment, the PRS Panel noted that, on 5 January 2019, the Applicant received an email from Ms. Y informing him that the job posting in Req. No. 417 had been canceled. The PRS Panel further noted that the job opening under Req. No. 417, therefore, was canceled prior to the selection of a candidate. Consequently, the PRS Panel noted that the Interview Report “was misleading” in stating that the Applicant “was not selected” for a prior position – most likely the Req. No. 417 position – after having been interviewed for it, when in fact no candidate could have been selected since the job opening was canceled.

70. With regard to the PRS Panel’s examination into whether there was a reasonable and observable basis for the Bank’s Non-Selection Decision, the PRS Panel reached the following conclusions:

Based on the documentary and testimonial record, the Panel observed that Ms. [Y], the SAC members, and [the Country Director], did not seek nor review any references about [the Applicant] with respect to his application to Req. No. 2739. There is no evidence that any references were mentioned during the SAC’s discussions concerning the other two candidates recommended for a second round of interviews with the hiring manager, [the Country Director]. Furthermore, the two references which were obtained for another recruitment – Req. No. 417 – were, in fact, quite positive regarding [the Applicant], rather than “not favorable” as stated in the SAC Interview Report. Finally, and based on the SAC Interview Report, the SAC seems to have granted disproportionate importance to [the Applicant’s] allegedly unfavorable references in evaluating his ability to meet the Position’s requirements based on the TOR [terms of reference]. The SAC’s seemingly unfair reliance on such allegedly unfavorable references, in turn directly impacted its recommendations to [the Country Director] as the hiring manager in Req. No. 2739.

Based on the above circumstances and its findings, the Panel concluded that the SAC Interview Report was not factual, and that it was misleading. Accordingly, the Panel concluded that the Non-Selection Decision cannot be found to be based on reasonable and observable grounds. Indeed, if the considerations retained for the SAC’s deliberations did not have a factual and objective basis, nor a reasonable one, the ensuing Non-Selection Decision also cannot be found reasonable nor demonstrable, in addition to it being misleading potentially.

71. Based on the submissions of the parties and the record as a whole, the Tribunal agrees with the above findings of the PRS Panel and also concludes that the Non-Selection Decision lacked a reasonable and observable basis.

*Whether the Bank followed a fair and proper process in making the Non-Selection Decision*

72. The Applicant contends that the Bank did not follow a fair and proper process in making the Non-Selection Decision. The Applicant states that the PRS Panel's determination that management did not follow a fair and proper process is correct. Specifically, the Applicant notes that the PRS Panel "found that the inconsistent composition of the SAC, the inadequate SAC Interview Report, and the lack of documentation regarding the manner in which the hiring manager made his selection decision, constituted an overall lack of transparency and fairness in the process." The Applicant asserts that "the successful candidate was pre-selected by [the Country Director]," the hiring manager, who "belatedly" added her to the shortlist.

73. The Applicant asserts that, although "five members were on the selection committee, not every panelist attended each interview" and that the "panelists failed to keep contemporaneous documentation" throughout the interview process and during the creation of the Interview Report. The Applicant asserts that the SAC failed to systematically evaluate and rank the candidates against the advertised hiring criteria, and instead provided brief summaries in the Interview Report commenting on vague qualifications such as "gravitas," "calm," and "motivation." The Applicant further asserts that the Country Director failed to document any reason for his hiring decision, did not document his interviews with any candidates, and did not review any references.

74. The Bank does not refute the claim that it failed to follow a fair and proper process in the selection process and accepts the PRS Panel's findings in this respect.

75. The Tribunal recalls that the PRS Panel also examined whether management followed the applicable process in making the Non-Selection Decision. The PRS Panel considered Principle 2.1

of the Principles of Staff Employment, which requires the Bank to follow a proper and fair process in its relations with staff members. The PRS Panel also referenced Tribunal precedent in *DK (Merits)*, Decision No. 552 [2017], para. 104 (citing *Iqbal*, Decision No. 485 [2013], para. 41), relating to “the requirements for a recruitment process,” in which the Tribunal stated that

[t]he principles of “objectivity,” “transparency,” “rigor,” and “diversity” cannot be implemented unless the SLC [Shortlisting Committee] [or the SAC] is composed of staff members from more than one unit in addition to an HR Officer. These objectives in recruitment are realized if the Bank makes its shortlisting [and interview] process[es] uniform with clear guidelines and when the composition of a [SLC or SAC] is diverse. [...] [S]taff members’ confidence in the shortlisting [and interview] process[es] will be enhanced by the Bank’s proper and contemporaneous documentation of the deliberations of the SLC [or SAC] in as much detail as practicable. Contemporaneous and detailed documentation of SLC [or SAC] deliberations is also a guarantee of a transparent, sound and fair recruitment process.

76. The Tribunal notes that the PRS Panel also reviewed the applicable May 2018 HR Recruitment Guidelines (HR Recruitment Guide) and specifically considered the provisions pertaining to the assessment and shortlisting of candidates for a position.

77. The PRS Panel noted the following from the hiring manager’s PRS hearing testimony regarding his expectations and vision for the successful candidate for the Senior Operations Officer position (Req. No. 2739):

The Panel noted that [the Country Director] did not brief [the SAC Chair] nor the SAC as a whole, on what his expectations were for the successful candidate for the Position. In this regard, [the Country Director] stated that since he had begun to be involved in the recruitment only after the completion of the longlisting, he did not offer any input to the SAC before that point. At the Hearing, [the Country Director] explained to the Panel that he was not looking for a senior person; however, he did not communicate his recruitment need to the SAC and its chair at any time during the recruitment process for Req. No. 2739.

When the Panel asked [the Country Director] at the Hearing to explain his strategic vision for the role in question, [the Country Director] stated that he was looking for someone who would find the job fulfilling while performing all the responsibilities of the Position, someone who can grow in the job and, therefore, someone less

senior than [the Applicant]. [The Country Director] stated that one candidate whom he interviewed and did not select for the Position, was a seasoned GG Level staff eager to function in an operational unit but who had worked in a corporate unit until recently at the time. According to [the Country Director], the second – successful – candidate was already in operations at a more junior level and could only thrive and grow into the job. [The Country Director] explained to the Panel his view that [the Applicant], who had exercised similar functions to the Position's [sic] previously in his WBG career, would have been unhappy in the job because he would have been too experienced for what the role called for and, therefore, overqualified for this type of position.

78. The PRS Panel also considered the Applicant's contentions that (i) only three out of the five SAC members were present for his interview (the Applicant stated in his PRS hearing testimony that the Practice Manager and the Program Assistant were absent), and (ii) the SAC composition may not have been the same for all candidates.

79. During the PRS hearing, the PRS Panel noted that the Practice Manager stated that "she did not remember" whether she was present for the Applicant's interview, and the Senior HR Business Partner stated that she "did not recall that [the Practice Manager] was not present" for the Applicant's interview. The PRS Panel further noted that the SAC Chair stated that all of the SAC members were present at each interview, except for the HR Business Partners, as the Senior HR Business Partner was present one day, and the HR Business Partner was present another day, due to personal circumstances. The SAC Chair also stated that all of the shortlisted candidates were interviewed during a "two-day interview period."

80. In response to the Applicant's contentions regarding the SAC's inconsistent composition, the PRS Panel observed

that there was no contemporaneous documentation during or around the time of the SAC's panel interviews, as to which SAC members were present at each candidate's interview, and that none of the SAC members provided concurring evidence as to whether the SAC's composition was the same – nor of whom it consisted – for each candidate who had been shortlisted for the Position. The Panel noted that it was not clear how the deliberations of the SAC following the interviews were conducted, or whether [the Practice Manager] recused herself when

[the Applicant's] performance at his interview was discussed during those deliberations.

81. The PRS Panel noted that the Country Director stated in his PRS hearing testimony that he (i) "had not maintained contemporaneous documentation of the two additional interviews" that he conducted of the top two candidates, and (ii) had informed the then-Director of Strategy and Operations of the Africa Regional Vice Presidency of his selection of a candidate "informally via WhatsApp."

82. The Tribunal recalls the Country Director's statement regarding his vision for the role of the Senior Operations Officer, produced above at paragraph 77.

83. The Tribunal observes the difference in the reasons given for the non-selection of the Applicant by the Country Director, namely his overqualification, versus the reasons given in the Interview Report for why the Applicant was not outright recommended for an interview, those reasons being that references obtained were not favorable and that he had interviewed for the same role before and was not selected.

84. With regard to the overall fairness and adequacy of the recruitment process, the PRS Panel made the following findings and conclusions:

The Panel noted that the record was not clear as to how the whole SAC reviewed the Interview Report. For example, [the Practice Manager] stated that she did not recall reviewing the Interview Report but that as a matter of course she would have reviewed such a Report. [The Senior HR Business Partner] said that she would have also reviewed the Interview Report however she acknowledged that she ought to have been more careful in reviewing its exact wording. The Panel noted that no evidence had been provided to demonstrate that the Interview Report was endorsed virtually by the whole SAC.

The Panel found that, while [the Country Director] seemed to have found a candidate matching his pre-existing expectations for the ideal candidate for the Position, he had not told the SAC what these expectations were, and had kept no record of his own assessments of each of the two top candidates whom he

interviewed. Therefore, it was unclear to the Panel how [the Country Director] as the hiring manager had arrived at the outcome he wanted for the Position.

[T]he Panel found that the inconsistent composition of the SAC, the inadequate SAC Interview Report, and the lack of documentation regarding the manner in which the hiring manager made his selection decision, constituted an overall lack of transparency and fairness in the process. The Panel, therefore, found that WBG management did not follow a fair and transparent procedure in making the Non-Selection Decision.

85. Based on the submissions of the parties and the record as a whole, the Tribunal agrees with the above findings of the PRS Panel and concludes that the Bank failed to follow a fair and proper process in the selection process.

*Whether the Non-Selection Decision was made in bad faith*

86. The Tribunal will now consider whether there was bad faith in making the Non-Selection Decision.

87. The Applicant contends that management followed an unreasonable procedure in which a preselected candidate, Ms. X, was belatedly added to the shortlist and advanced through the interview process; the Interview Report was falsified with regard to the Applicant; and the preselected candidate was selected without any documentation or explanation beyond the “whim” of management. Further, the Applicant asserts that the Country Director acted dishonestly when he failed to express his vision for Req. No. 2739 to the SAC, that he wanted someone “less senior,” even though that vision contrasted with the terms of reference.

88. The Applicant further asserts that the Country Director’s actions were compounded and aided by the actions of the SAC, which drafted and endorsed an interview report with admitted false information regarding the Applicant’s history and unfavorable references, thereby providing the Country Director the cover to not even consider the Applicant for a final interview for the position. The Applicant asserts that the evidence in the record supports a finding of an improper motive or dishonest conduct, which supports a finding of bad faith.

89. The Bank contends that both the PRS Panel and EBC concluded that the Non-Selection Decision was not made in bad faith. The Bank asserts that the Country Director did not have a preferred candidate in mind for the position. The Bank asserts that, prior to the interview, the Country Director did not know the selected candidate and had never met her. In support, the Bank cites an email the Country Director sent to the PRS Panel stating the same.

90. Further, while the Bank “acknowledges and accepts” that it was inappropriate to include information obtained from a previous recruitment in Req. No. 2739, the Bank avers that the characterization of the references obtained as “unfavorable” was “not entirely incorrect.” To the Bank, although “unfavorable” may have been too strong a word choice, it would be equally a stretch to say that the references were “only or completely favorable.” The Bank also refutes the Applicant’s contention that the SAC statement in the Interview Report that the Applicant was “not selected” was inaccurate and highly misleading because the position had been canceled.

91. The Tribunal recalls the PRS Panel’s findings, wherein it noted its concern regarding the SAC’s apparent reliance on references that the SAC members, in fact, had neither obtained nor reviewed. It further noted that statements in the Interview Report “about unfavorable references for [the Applicant] alone were not merely misleading, but constituted a misrepresentation of the facts.” The PRS Panel also noted with concern that “the SAC Interview Report – including the prejudicial and manifestly false comments – was shared with the entire COS Board’s internal email list.” The PRS Panel considered that

the SAC, and each of its members individually, bear the responsibility for the Interview Report and its contents, as well as for the consequences which the inappropriate comments may have had already – and may still have in the future – on [the Applicant’s] professional reputation and continued career at the WBG.

92. The Tribunal also recalls EBC’s conclusions as to the allegations of willful misrepresentation of facts and the disclosure of confidential information. The Tribunal notes that EBC determined that the Applicant’s references from the 2018 recruitment were discussed, but



EBC was unable to determine who discussed the references during the SAC deliberations. Given that EBC was unable to determine who made the remark about the Applicant's references during the SAC's deliberations, EBC was unable to determine that any individual member of the SAC willfully misrepresented facts during the deliberations.

93. The Tribunal observes that the PRS Panel was not able to find evidence of bad faith or improper motives, and EBC did not find sufficient evidence to warrant the submission of a report to the HRDVP for a decision on a finding of misconduct, on the part of any one staff member. The absence of either finding does not exculpate the Bank from responsibility. The Tribunal recalls that the Bank, as an employer, is obliged to act in good faith towards its staff and that staff, of course, have a reciprocal duty towards the Bank. The United Nations Dispute Tribunal held in the case of *James*, Judgment No. UNDT/2009/025, para. 28:

It is a universal obligation of both employee and employer to act in good faith towards each other. Good faith includes acting rationally, fairly, honestly and in accordance with the obligations of due process.

94. The Tribunal declines to make a determination on the claim of bad faith in this case. However, the Tribunal considers that the Applicant has demonstrated that he suffered harm from the convergence of individual actions taken and omissions made without good reason, adequate explanation, or apparent accountability. The Tribunal considers that the failures on the part of the Bank, viewed collectively, constituted an egregious want of fairness towards the Applicant and will have due regard to this in its determination as to compensation below.

*Overall conclusion and the question of additional compensation*

95. The Tribunal finds that the integrity of the selection process in this case was undermined by numerous serious defects, which may be summarized as follows:

- (i) The record contains no contemporaneous documentation or notes regarding the Country Director's proposal to add Ms. X to the shortlist after it was finalized by the

SAC, and the record contains little in the way of a summary or notes of the SAC's deliberations regarding not only adding Ms. X but also removing another shortlisted candidate it had already selected for the shortlist.

- (ii) The record shows an inconsistent composition of the interview panel that interviewed the candidates. There was confusion among the SAC members regarding the interview panel's composition. The SAC Chair told the PRS Panel that all the SAC members were present on both days, except the Senior HR Business Partner who was present one day and the HR Business Partner who was present the other day. The Senior HR Business Partner stated that she did not recall that the Practice Manager was not present for the Applicant's interview. And, finally, the Practice Manager testified that she did not remember whether she was present at the Applicant's interview.
- (iii) There was no contemporaneous documentation during or around the time of the SAC interviews nor as to which SAC members were present at each candidate's interview. Further, none of the SAC members provided concurring evidence as to whether the SAC's composition was the same – or of whom it consisted – for each candidate who had been shortlisted.
- (iv) The Interview Report included false and misleading statements with regard to the Applicant. The false statement in the Interview Report stated that the Applicant had previously interviewed for the position and was the top candidate in a previous round but that the panel understood that the “references obtained were not favorable.” The PRS Panel and EBC found this statement to be incorrect as the only references that were obtained for the Applicant were by Ms. Y in the previous round and those references were generally positive.
- (v) The Interview Report did not mention references for any of the other shortlisted candidates, including a candidate who was also shortlisted and recommended for an interview with the hiring manager along with the Applicant for Req. No. 417.

- (vi) According to EBC, none of the five SAC members could recall who made the remark about unfavorable references, how the false statements regarding the Applicant got into the report, or how the false and misleading comments were collectively approved by the SAC without being vetted; nor were any of the SAC members able to produce contemporaneous documentation on the issue. Despite their collective lack of recollection, the Interview Report was finalized and sent to the hiring manager, the Country Director. The PRS Panel observed that no evidence had been provided to the PRS Panel to confirm that the Interview Report was endorsed by the entire SAC.
- (vii) The Interview Report was not factual, and it was misleading. Thus, the Non-Selection Decision cannot be found to be based on reasonable and observable grounds.
- (viii) Finally, the selection process lacked transparency and fairness.

96. The Tribunal recalls that the main objective in the Bank's competitive selection process is to "hire staff of the highest caliber." Only fair and transparent selection processes can guarantee the recruitment of "staff of the highest caliber." A selection process marred by so many defects undermines the Bank's commitment to recruiting "staff of the highest caliber." It not only harms the external image and reputation of the Bank but also undermines the confidence and trust which staff are entitled to have in working for an international body. Only fair and transparent processes can provide every candidate with a fair and equal opportunity to compete for positions, which is essential for workplace morale and staff's confidence in the Bank.

97. There are regrettable perceptions created by the late addition, almost two months after the closing date for receipt of applications and via WhatsApp, and eventual selection of the successful candidate under Req. No. 2739. The Tribunal observes that the Applicant strongly clarified during the PRS hearing that he was not challenging the selection of the candidate to whom the position was offered. However, the casual and belated manner in which the selected candidate was added to the list of potential candidates by the hiring manager – a person of high office in the Bank – was

inappropriate and unacceptable, and it served neither the interests of the Bank nor those of the successful candidate. The Tribunal considers that holders of high-level positions within the Bank must act and must be seen to act in a manner that is beyond reproach. It is imperative, in the Tribunal's view, that they act at all times with the utmost probity and integrity and that they are seen to do so.

98. The Tribunal recognizes the Bank's discretion to add – in appropriate circumstances – a belatedly identified candidate to a list that has been completed. However, the Bank is, nevertheless, obliged to ensure that the process through which it conducts targeted sourcing is a fair one. The Tribunal considers it imperative that a transparent and open competitive process must occur and be seen to occur.

99. The Tribunal will now consider whether the Applicant is entitled to additional compensation above the PRS Panel's award of three months' net salary.

100. The Applicant contends that he suffered professional harm following the disclosure of the Interview Report to the COS Board email list containing over 20 staff members. Based on this point, as well as the abuse of discretion, including improper motive that led to his Non-Selection, the Applicant contends that he is entitled to additional compensation in the amount of two years' net salary.

101. The Bank contends that the Applicant's claim of reputational harm is not justified and, moreover, that the Applicant has not met the Tribunal's threshold to warrant additional compensation. The Bank asserts that the Applicant was successfully selected and appointed to a similar and equivalent position just a few months after the inadvertent disclosure of information.

102. In *CK*, Decision No. 498 [2014], para. 101, the Tribunal set out the general principles it follows in determining the quantum of compensation, stating, "In assessing compensation the Tribunal considers the gravity of the irregularity, the impact it has had on an applicant and all other relevant circumstances in the particular case."

103. As stated before, there are serious irregularities in the selection process in this case. Not only was the process followed unfair and improper, but the substantive decision of the Applicant's non-selection also lacked a reasonable and observable basis. The process lacked transparency for want of contemporaneous documentation. It is unacceptable that the Interview Report contained false and misleading information about the Applicant, which was shared with more than 20 staff members in the Bank.

104. It is understandable that the Applicant felt humiliated and betrayed, and suffered considerable stress. It cannot be said that the Bank handled the selection process with respect for the Applicant's dignity. It is also foreseeable that his career prospects might suffer. The Tribunal notes that the Applicant was appointed to an equivalent Senior Operations Officer position in March 2020, just six months after the Non-Selection Decision. However, this does not automatically mean that he has been made whole or that the door for compensation is closed. The Applicant explains as follows:

[T]he PRS Report, which [the Bank] wholly endorses, concluded that [the Applicant's] career would likely experience setbacks because the Interview Report that said he had unfavorable references was carelessly sent "to more than twenty staff members, including some likely to be part of interview panels for other positions to which [the Applicant] may apply in the future." Not surprisingly, [the Applicant] continues to experience stress and anxiety over his reputation in, and future with, the Bank. The nature of the country services path places him in a position where he would continue to apply to new positions and sit for interview panels, all with the false report hanging over his head.

105. In *BY*, Decision No. 471 [2013], para. 49, the Tribunal found that a decision to recall an applicant from his duty station to headquarters was flawed for failure to provide the applicant with notice of the dissatisfaction with his performance that led to his recall, but it noted that the applicant had not demonstrated any nexus between his recall and the alleged severe damage to his professional reputation and career prospects. Further, the recall decision "did not result in a reduction of his grade level, nor was he reassigned from a managerial to a non-managerial

position.” *BY* [2013], para. 52. Yet the Tribunal awarded six months’ salary as compensation for the flawed recall decision.

106. The Tribunal’s jurisprudence shows compensation may be awarded for procedural violations alone; actual proof of career damage is not required. The jurisprudence also shows that compensation is likely to be higher if the substantive decision is also flawed. In *DB*, Decision No. 524 [2015], the Tribunal stated at para. 113:

The Tribunal’s practice indicates that the procedural flaws in the present case, in and of themselves, require payment of compensation in an amount significantly higher than was recommended by PRS. Moreover, the Tribunal has concluded that the flaws in the reassignment decision were both procedural and substantive.

107. In the present case, in determining the quantum of compensation, the Tribunal is guided by its prior jurisprudence. In *EB*, Decision No. 563 [2017], having found that the Bank’s non-selection decision was an abuse of discretion, the Tribunal ordered the following remedies:

- (1) The non-selection decision is rescinded. The Bank shall reinstate the [a]pplicant to a GC-level Program Assistant position or similar, retroactive to 24 August 2015, the date on which the [a]pplicant would have formally been appointed. In the event the Bank decides not to reinstate the [a]pplicant, it shall compensate her for damages resulting from the non-selection decision, in an amount equivalent to three years’ net salary based on last regular salary drawn;
- (2) The Bank shall contribute to the [a]pplicant’s legal fees and costs in the amount of \$20,000; and
- (3) All other pleas are dismissed.

108. In *Iqbal* [2013], para. 58, the Tribunal concluded:

On balance, the Tribunal is not satisfied that a fair assessment of the candidates had been conducted during the shortlisting, interview and final selection processes, or that the principles ensuring a transparent, sound and fair recruitment process established in its jurisprudence have been observed in this case.

The Tribunal ordered the Bank to pay the applicant compensation in the amount of seven months' salary net of taxes for the irregularities in the selection process "even though the possibility exists that the [a]pplicant might not have been selected for the position absent those deficiencies." *Id.*, para. 59.

109. In *BK* [2010], the Tribunal awarded the applicant compensation in the amount of nine months' salary net of taxes for a flawed selection process, noting the following at para. 57:

The Tribunal concludes that the shortcomings in the process specified in this judgment do not amount to mismanagement of the [a]pplicant's career at the Bank, as the [a]pplicant claims. At the same time, the Tribunal considers that these shortcomings, while not requiring rescission of the impugned decisions, are sufficiently significant to warrant compensation for the [a]pplicant. In deciding the quantum of compensation, the Tribunal is mindful of a number of considerations. On the one hand, it is possible, but not certain, that the [a]pplicant might not have brought this Application had the process not been deficient, i.e. had the SLC been constituted in accordance with the Bank's Guidelines and an explanation of the basis for his non-selection been provided to the [a]pplicant before he filed an appeal. On the other hand, in assessing the compensation for the [a]pplicant's loss of opportunities, it is not possible to conclude that, but for these shortcomings in the process, there was a high likelihood that the [a]pplicant would have been recruited for any of the positions in question. These considerations are reflected in the compensation awarded by the Tribunal.

110. Based on the foregoing, the Bank shall pay compensation to the Applicant in the amount of one and a half years' salary net of taxes inclusive of the amount already paid by the Bank following the PRS process. In other words, following the Tribunal's judgment, the Applicant will be paid an additional fifteen months' salary net of taxes.

#### DECISION

- (1) The Bank shall pay the Applicant compensation in the amount of one and a half years' salary net of taxes inclusive of the amount already paid by the Bank following the PRS process;

- (2) The Bank shall contribute to the Applicant's legal fees and costs in the amount of \$20,000; and
- (3) All other claims are dismissed.



/S/ Mahnoush H. Arsanjani

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Mahnoush H. Arsanjani

President

/S/ Zakir Hafez

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Zakir Hafez

Executive Secretary

At Washington, D.C., \* 3 June 2022

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\* In view of the public health emergency occasioned by the COVID-19 pandemic and in the interest of the prompt and efficient administration of justice, the Tribunal conducted its deliberations in these proceedings remotely, by way of audio-video conferencing coordinated by the Office of the Executive Secretary.