



World Bank Administrative Tribunal

2022

Decision No. 671

**GR,
Applicant**

v.

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

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

**GR,
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 18 June 2021. The Applicant was represented by Ryan E. Griffin of James & Hoffman, 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 23 May 2022.

3. The Applicant challenges the Human Resources Vice President's (HRDVP) determination that she committed misconduct and the disciplinary measures imposed therein.

FACTUAL BACKGROUND

4. The Applicant is an Advisor, Grade Level GH, in the Bank and based in Washington, D.C. The Applicant joined the Bank in 1999 as a Language Team Assistant. From September 2006, she served in several operations roles including Operations Officer to the Operations Policy and Country Services Fragile States Unit, Senior Operations Officer for the Timor-Leste Country Office, and Senior Operations Officer for the Timor-Leste, Papua New Guinea, and the Pacific Islands Country Management Unit (CMU).

5. In June 2012 the Applicant was appointed Resident Representative for one of the Bank's Country Offices.

6. On 1 June 2016, the Applicant became a Country Manager for the Bank's X Country Office and served in this position until 22 May 2019. From September 2017, the Applicant reported to the Country Director of the Central America Countries CMU (Country Director).

7. In July 2018, the Ethics and Business Conduct Department (EBC) received an anonymous complaint against the Applicant via the Ethics Helpline alleging that she was bullying, intimidating, and mistreating staff, and that she was misusing World Bank Group (WBG) assets, including the office vehicle, for personal use. The anonymous complainant did not respond to EBC's repeated requests for additional information. After conducting four interviews with staff in the X Country Office, EBC closed the matter at the initial review stage due to insufficient factual evidence to warrant further consideration.

8. Almost one year later, on 4 June 2019, the Applicant was appointed Manager of Operations for one of the Bank's Country Offices in South Asia. Around the same time, another staff member was appointed Acting Country Manager for X Country, temporarily replacing the Applicant.

Referral of allegations to EBC

9. On 25 July 2019, the Country Director referred to EBC allegations of hostile work environment, abuse of authority, and unauthorized use of Bank Group staff against the Applicant. Later that day, EBC conducted an intake interview with the Country Director.

10. The Country Director informed EBC investigators that, during a team-building retreat which took place in Washington, D.C., from 11 to 12 July 2019, the entire staff of the X Country Office, nine individuals, met with her and reported that the Applicant, while she was Country Manager for X Country, subjected them to harassment, including verbal abuse and intimidation, and abuse of authority, including routine requests to perform personal errands for her.

11. The Country Director informed EBC that the staff were extremely afraid of retaliation and decided to raise this complaint only after the Applicant left the X Country Office in May 2019. The Country Director stated that those most affected were the X Country Office staff who worked

closely with the Applicant, namely the Executive Assistant, the Driver, and the Senior Operations Officer.

12. According to the Country Director, “all” of the staff were crying and “pouring out” as they relayed to her how the Applicant treated them. The Country Director further stated that she informed the X Country Office staff that she would refer this matter to EBC for appropriate action. She also said that she coordinated with the Health and Safety Directorate to provide them support and guidance.

13. The Country Director expressed the view to EBC that the Applicant was “extremely effective” in the discharge of her duties and that she had even managed to receive government approval for a loan that had been “stuck” for two years. The Country Director also stated that during her visits to the X Country Office she did not witness any incidents or issues between the Applicant and her staff.

14. Subsequently, on 3 October 2019, the Acting Country Manager for X Country also reported to EBC that the entire X Country Office staff approached her and told her that the Applicant created a hostile work environment for them.

EBC preliminary inquiry

15. On 4 November 2019, EBC’s investigative team traveled to the X Country Office to interview relevant witnesses and collect evidence as part of its preliminary inquiry.

16. From 5 to 8 November 2019, EBC conducted eleven interviews with nine staff members and two vendor employees who worked in the X Country Office, including the

- Executive Assistant;
- Program Assistant and Respectful Workplace Advisor (RWA) (Program Assistant/RWA);
- Program Assistant;

- Team Assistant;
- Senior Operations Officer;
- Driver;
- Resource Management Analyst;
- Procurement Specialist;
- Information Technology (IT) Analyst; and
- Two cleaning vendor employees.

17. On 25 November 2019, EBC interviewed two staff members based in the International Finance Corporation (IFC) X Country Office – the IFC Program Assistant and the IFC Investment Officer.

18. On 3 December 2019, EBC interviewed the former Country Head (IFC Country Head) of the IFC X Country Office.

19. During their interviews with EBC, the aforementioned witnesses alleged four main “inappropriate” behaviors and/or incidents perpetrated by the Applicant: (i) requests to perform personal errands, (ii) speaking to staff in a raised voice or angry tone, (iii) conducting a staff meeting regarding the Applicant’s 2018 Managerial 360° Assessment Report (360 assessment), and (iv) requesting that a staff member provide positive feedback in the Applicant’s 2019 Insights of Managerial Performance and Competency Tool (IMPACT) Assessment Report (IMPACT assessment report).

20. The main allegations from the witness interviews are summarized hereafter.

Requests to perform personal errands

21. During her interview with EBC investigators, the Applicant’s Executive Assistant in X Country stated that, throughout the Applicant’s tenure as Country Manager for X Country, the Applicant routinely asked her and other staff members – namely the Program Assistant/RWA, the

Team Assistant, and the Driver – to perform personal errands for her during their official work hours and also during their personal time.

22. According to the Executive Assistant, the Applicant asked her to perform the following personal errands:

(i) manage and reconcile her personal checking accounts ([local currency] and U.S. dollars); (ii) issue checks for [the Applicant's] personal expenses; (iii) prepare a report tracking all her expenses; (iv) send her a weekly report of her expenses; (v) pay her monthly rent; (vi) make her appointments for a manicure and pedicure once a week; (vii) make her massage appointments once a week; (viii) make her hair appointments (haircut and color) once a month; (ix) make her medical appointments (once every three months); (x) pay the salary of her housekeeper; (xi) prepare a report and keep track of the vacation days taken by the housekeeper; (xii) organize her personal parties and dinners; (xiii) make arrangement for her personal vacations (make hotel reservations); (xiv) arrange for repairs in her apartment (curtains, bathroom leaking, kitchen door wasn't working, etc); (xv) make and purchase Christmas baskets for the maintenance and admin staff of her apartment building; (xvi) obtain quotes for the purchase of her elliptical machine; and (xvii) purchase paintings, every two or three months.

23. The Executive Assistant told EBC that she spent approximately 40% of her official work time performing personal errands for the Applicant and stated that this made her feel like she was the Applicant's "personal assistant instead of a World Bank Executive Assistant." The Executive Assistant further stated that she performed the aforementioned tasks without raising any objections to the Applicant because she was "afraid" of her and added, "I didn't want to lose my job."

24. Additionally, the Executive Assistant told EBC investigators that, when she was not in the office, the Applicant asked her backups, namely the Program Assistant/RWA and the Team Assistant, to make her personal appointments. The Executive Assistant stated that, for the last six months of the Applicant's tenure, the Applicant made her own personal appointments.

25. During her interview with EBC, the Program Assistant/RWA confirmed that she was the "back-up" executive assistant for the Applicant when the Executive Assistant was out of the office. The Program Assistant/RWA stated that, while working as the Applicant's executive assistant, she was asked by the Applicant to perform personal tasks such as (i) making hair salon and manicure

appointments, (ii) managing her checkbooks, (iii) making payments for her personal bills, and (iv) making hotel reservations for her vacations.

26. The Program Assistant/RWA told EBC that “she did not mind” making hotel reservations for the Applicant, but that handling the Applicant’s checkbooks made her “nervous.”

27. The Team Assistant told EBC that the Applicant asked her, on one occasion when the Team Assistant was covering for the Executive Assistant, to make the Applicant a manicure appointment at a beauty salon. She stated that this request made her feel “helpful.”

28. Following their interviews, the Executive Assistant and Program Assistant/RWA provided EBC with copies of a number of emails and screenshots of WhatsApp messages showing requests by the Applicant for them to perform various personal tasks including making personal appointments, paying her personal bills, managing her checkbooks, and scheduling apartment repairs.

29. The Executive Assistant also provided copies of the “End of Day Email” which she stated the Applicant asked her to send to her every day describing the status of all the tasks, including work-related and personal, that the Executive Assistant performed on a given day.

30. The Driver informed EBC that, during the Applicant’s tenure as Country Manager for X Country, she asked him to perform the following personal tasks for her:

(i) taking her clothes to the laundry and dry cleaners (every 15 days – sometimes weekly); (ii) going to the bank to cash checks ([local] currency) for her to bring her cash (weekly occurrence); (iii) taking checks to the landlord to pay her rent[;] (iv) taking checks to her apartment building to pay her electricity bill; (v) doing grocery shopping (purchasing “milk, fruit, tomatoes, lettuce”) and taking the groceries to her apartment; (vi) putting gas in her personal car; [and] (vii) purchasing coffee, flowers [and] other items/products she requested.

31. The Driver told EBC that the Applicant gave him “caja chica [petty cash]” to use for her personal expenses and that, when he finished the money, he had to provide her with a list or summary of how he spent her money.

32. The Driver stated that he took these requests for personal tasks as “an obligation” because he wanted to “protect” his job and was afraid of reprisals if he did not comply with the Applicant’s requests. The Driver also stated that some of these tasks decreased around June 2018 when the Applicant hired a personal driver.

Speaking to staff in a raised voice or angry tone

33. The Program Assistant/RWA informed EBC investigators that the Applicant raised her voice at her on two occasions around April 2019. According to the Program Assistant/RWA, on one occasion the Applicant “scolded” her in front of the Senior Operations Officer in connection with a list of guests she prepared for a big event that the office was organizing. The Program Assistant/RWA stated that the Applicant made her feel “upset” and “embarrassed.”

34. The Program Assistant/RWA stated that on another occasion the Applicant raised her voice at her and the Team Assistant in the reception area because the Applicant thought that they had not sent invitations to an event to certain individuals. The Program Assistant/RWA stated that in that moment she thought, “I heard people saying they were scolded [...] and [that the Applicant] raised her voice at them [...] so maybe it was my turn.”

35. The Team Assistant told EBC that the Applicant “yelled” at her on one occasion and apologized to her the next day. She also stated that she never witnessed the Applicant yelling or behaving in a disrespectful manner towards anyone and noted that her interactions with the Applicant were limited.

36. The Executive Assistant informed EBC that on one occasion, in May 2019, the Applicant screamed at her in the hallway because she and the rest of the staff stayed in an office celebratory lunch for longer than the Applicant expected. The Executive Assistant stated that this incident made her upset and she began crying. The Executive Assistant stated that the Applicant also cried and apologized to her.

37. The Senior Operations Officer told EBC that he personally witnessed the Applicant yelling at the Executive Assistant after the office celebratory lunch. Regarding the same incident, the IFC Program Assistant stated that she heard the Applicant speaking to the Executive Assistant in a “little bit [of a] loud voice.” The Program Assistant/RWA told EBC that the IFC Program Assistant told her about the incident. According to the Program Assistant/RWA, she then went to see the Executive Assistant and found her crying.

38. According to the Senior Operations Officer, on one occasion the Applicant screamed at him and the Executive Assistant, “You’re not doing your job!” because a guest list for an event was not ready. The Resource Management Analyst told EBC that, although he could not recall further details, he heard the Applicant screaming at the Senior Operations Officer and the Executive Assistant sometime in 2019 in relation to the organization of some events.

Conducting a staff meeting regarding the Applicant’s managerial 360 assessment

39. Seven staff members, namely the Executive Assistant, the Resource Management Analyst, the Program Assistant, the IT Analyst, the Senior Operations Officer, the Team Assistant, and the Program Assistant/RWA informed EBC that the Applicant called a staff meeting in or around May 2018 to discuss negative feedback she had received in her 360 assessment.

40. The Executive Assistant recounted that the Applicant was “mad” as evidenced by an angry facial expression and using a “tough voice.” She stated that the Applicant said, “I can’t believe I had a bad performance evaluation” and “I have an open-door policy and you never told me and then do this review? So, tell me now.”

41. The Resource Management Analyst informed EBC that the Applicant asked why she received a “bad” evaluation and, when he told her in a separate meeting that people were “afraid” of her, she became “more distant” in her relationship with him. The Resource Management Analyst further stated that the Applicant’s conduct in this meeting regarding her 360 assessment “had a negative impact” on the office environment.

42. The Program Assistant told EBC investigators that during this meeting the Applicant was “confrontational” and made her feel “uncomfortable.” According to the Program Assistant, the Applicant was “visibly angry.” She described the Applicant’s tone during the meeting as “you better tell me or else!”

43. According to the IT Analyst, the Applicant was “very mad” and “completely serious” during the meeting. The IT Analyst stated that during the meeting the Applicant did not make “much eye contact” with staff, and that it felt like she was confronting them as to why she received negative feedback. The IT Analyst stated that the Applicant “wanted to know why there was negative feedback.” The IT Analyst further stated that as a result of the meeting she felt “bad and uncomfortable” and “betrayed by the system.”

44. The Senior Operations Officer informed EBC that during this meeting the Applicant was “mad” as evidenced by her manner of speaking, and her body language made him feel “uncomfortable.” He noted, “That was not the way of approaching the problem.”

45. The Team Assistant recalled that during this meeting the Applicant was “upset.” When asked how she knew the Applicant was upset, the Team Assistant said, “Her face gave the impression she was mad.” The Team Assistant also stated that she felt “uncomfortable” because the Applicant was “confronting” her and her colleagues about the negative feedback she received.

46. The Program Assistant/RWA told EBC investigators that she noticed that the Applicant showed “great disappointment” about the feedback she received in her 360 assessment and communicated this to the staff. She stated that she could not recall what the Applicant said but remembered she was “surprised” that the Applicant raised this issue because previous country managers never did. She noted that it was an “awkward” moment because “everybody [in the meeting] kept silence.” She said that no one knew what to do. When asked whether she felt confronted or intimidated, the Program Assistant/RWA replied in the negative and said that she felt “sorry” for the “bad evaluation” the Applicant received.

47. The Driver and the Procurement Specialist were not present at this meeting.

Requesting that a staff member provide positive feedback in the Applicant's IMPACT assessment report

48. Following her EBC interview, one of the documents the Executive Assistant provided to EBC was a screenshot of a WhatsApp message the Applicant allegedly sent to the Program Assistant/RWA, stating:

Dear [the Program Assistant/RWA], hi. Can you please make sure you kindly complete my IMPACT assessment? I need a positive one since I assume some others in the office won't give me a good one 😊 Thank you!

49. During her EBC interview, the Program Assistant/RWA confirmed that she received the aforementioned WhatsApp message from the Applicant on 12 June 2019.

50. The Program Assistant/RWA stated that she felt "surprised" and thought it was "inappropriate" for the Applicant to send her such a request. She further stated, "What a nerve. You know, to ask this. I was surprised...I was surprised because managers before, nobody did that."

51. The Program Assistant/RWA told EBC that she considers herself "fair" when providing feedback and that there was no need for the Applicant to send her such a request. She further stated that she never replied to the Applicant's WhatsApp message.

52. When asked if she felt pressured or intimidated by the Applicant's request, the Program Assistant/RWA replied in the negative and explained that, when the Applicant sent her the WhatsApp message requesting her to provide positive feedback, the Applicant had just left her position as the Country Manager for X Country and could not retaliate against her.

53. The Program Assistant/RWA replied in the negative when she was asked if the Applicant had requested positive feedback from her on any other occasion.

*EBC investigation*Notice of Alleged Misconduct

54. Following EBC's review of the allegations, including witness testimony and documentary evidence, EBC found sufficient factual basis to conduct a formal investigation into the allegations against the Applicant.

55. On 24 February 2020, EBC provided the Applicant with a written Notice of Alleged Misconduct detailing the allegations against her, EBC's investigative process, her rights and obligations, and the applicable WBG rules and policies she was alleged to have breached. It stated in relevant part:

1. I am writing to inform you that the Ethics and Business Conduct Department ("EBC") is currently investigating allegations that you may have committed misconduct under the World Bank Group ("WBG") rules and policies. It is alleged that during your tenure as Country Manager for the [X] Country Office you created a hostile work environment by engaging in harassment and abuse of authority against other Bank staff and personnel. It is also alleged that you engaged in unauthorized use of Bank Group staff.
2. Specifically, the following staff members: [i] [...] Executive Assistant, [...]; (ii) [...] Operations Officer, [...]; (iii) [...] Procurement Specialist, [...]; (iv) [...] Resource Management Analyst, [...]; (v) [...] IT Analyst, [...]; (vi) [...] Program Assistant[/RWA], [...]; (vii) [...] Program Assistant, [...]; and [viii] [...] Driver, [...] alleged that you displayed harassing, offensive and intimidating behavior (evidenced by aggressive conduct) against them and vendor employees.
3. Furthermore, [the Executive Assistant], [the Program Assistant/RWA] and [the Driver] alleged that you engaged in abuse of authority and unauthorized use of Bank Group staff by regularly requesting them to perform personal errands for you such as pay personal bills, appointments to the beauty salon and grocery shopping.

[...]
5. If the allegations made against you are substantiated, your actions may constitute misconduct under applicable Bank Group rules and policies, including, but not limited to the provisions of:

- i. Staff Rule 3.00, paragraph 6.01(b): Reckless failure to identify, or failure to observe, generally applicable norms of prudent professional conduct;
- ii. Staff Rule 3.00, paragraph 6.01(c): Acts or omissions in conflict with the general obligations of staff members set forth in Principle 3 of the Principles of Staff Employment including the requirements that staff avoid situations and activities that might reflect adversely on the Organizations (Principle 3.1) and conduct themselves at all times in a manner befitting their status as employees of an international organization (Principle 3.1 (c)); and
- iii. Staff Rule 3.00, [paragraph] 6.01(e): Harassment; contributing to a hostile work environment (see also World Bank Group Guidance – Anti-Harassment: Catalog No. HRD 10.03-GUID.101); or wrongful discrimination.

56. Later that day, EBC interviewed the Applicant via WebEx. EBC conducted further interviews with the Applicant virtually on 3 and 9 March 2020.

The Applicant's interviews with EBC

57. During her interviews with EBC, the Applicant admitted that she asked the Executive Assistant to make appointments to get her haircut and color her hair, and for her manicure, pedicure, and massage sessions. She told EBC that she made these requests “a few times,” especially at the beginning of her tenure in X Country, but that after she became more familiar with X Country she “mostly” made these appointments herself.

58. The Applicant told EBC investigators that she requested the Executive Assistant to make arrangements for repairs of items in her apartment. When EBC provided the Applicant with a copy of a WhatsApp text message she allegedly sent to the Executive Assistant on Saturday, 21 July 2018, at 7:53 a.m. asking her to make arrangements for home repairs, the Applicant confirmed that she sent the text message. The Applicant told EBC that the Executive Assistant never expressed any dissatisfaction about performing these tasks for her.

59. The Applicant also admitted to EBC that she asked the Executive Assistant to perform the following tasks: (i) make payments to her housekeeper and keep track of her housekeeper's vacation days, (ii) use the Applicant's personal checkbooks with signed blank checks to pay her personal bills, (iii) provide the Applicant with a weekly email with a report on the status of her personal bank accounts (in both local currency and U.S. dollars), (iv) arrange parties and/or dinners for her (the Applicant told EBC that "99%" of the parties and dinners hosted in her apartment were work-related), and (v) send the Applicant an email at the end of each day summarizing the status of all of the personal and official tasks the Executive Assistant performed that day.

60. The Applicant informed EBC that she believed the Executive Assistant spent approximately 5% of her time performing personal tasks for the Applicant and denied that these tasks or errands would have taken 40% of the Executive Assistant's time. The Applicant also stated that she did not believe the Executive Assistant was afraid of her. She added, "I'm sorry that she said that and I'm sorry she really felt that...all I can say is I'm very sorry that she felt that way."

61. The Applicant admitted to EBC that she asked (i) the Program Assistant/RWA to perform personal tasks for her such as hair appointments, manicure and pedicure appointments, and personal travel; (ii) the Driver to run personal errands for her during official Bank hours; and (iii) the Team Assistant to perform tasks for her of a personal nature when the Executive Assistant and/or the Program Assistant/RWA were not in the office.

62. With regard to speaking to staff in a raised voice or angry tone, the Applicant denied screaming at the Executive Assistant after the office celebratory lunch in 2019. The Applicant also denied raising her voice at the Program Assistant/RWA when discussing the invitation list for a nutrition event. The Applicant informed EBC that she remembered meeting with the Program Assistant/RWA and the Senior Operations Officer to explain the nature and importance of the event and the fact that it had to be handled carefully due to the political situation in X Country.

63. With regard to the May 2018 staff meeting to discuss the Applicant's 360 assessment, the Applicant told EBC that she told staff, "There were some comments that I was surprised about. And I said, this is news to me because I have, I mean, I've always said I had an open door, and if

there are issues, I would like to hear them.” The Applicant stated that she read the negative comments during the meeting because she wanted to understand “where this was coming from.” The Applicant denied that she was angry or confrontational, and also denied that her tone was intimidating or threatening.

64. According to the Applicant, her executive coach suggested that she ask staff about the negative feedback she received so she could know what was causing that feedback and what she needed to do to improve.

65. The Applicant admitted to EBC investigators that, in or about June 2019, she asked the Program Assistant/RWA to provide her favorable feedback in her IMPACT assessment report. When shown a copy of the screenshot of a WhatsApp message whereby she allegedly asked the Program Assistant/RWA to provide her with favorable feedback, the Applicant confirmed that she sent the WhatsApp message. The Applicant stated that she sent the message because she had a feeling that the Executive Assistant was going to provide her “bad feedback.” The Applicant told EBC that she wished she had explained to the Program Assistant/RWA that she was only asking her to be “sincere” and provide in the IMPACT assessment report the positive feedback she had given her in prior conversations.

The Applicant’s written statement

66. On 6 May 2020, the Applicant provided a written statement to EBC after reviewing her interview transcripts. In her statement, the Applicant reiterated her (i) regret and apologies for having asked the Executive Assistant, the Program Assistant/RWA, and the Driver to perform personal errands for her and (ii) denial that these personal tasks took approximately 40% of the Executive Assistant’s time. The Applicant provided spreadsheets with her calculations showing that these tasks would have taken only 1.66% of the Executive Assistant’s and/or the Program Assistant/RWA’s time.

67. Additionally, the Applicant provided several exhibits relating to her written statement, including (i) her Mid-Year Feedback report from her subsequent posting as Manager of Operations

(completed by 49 staff members in February 2020) containing favorable feedback about her performance and interactions with staff; (ii) a copy of an intranet article published in May 2020 with staff statements showing gratitude and appreciation for her friendship and managerial style during her Manager of Operations posting; (iii) an email from the Team Assistant, dated 9 September 2019, stating, “De todo corazon y con toda la sinceridad, deseo que estes bien, conmigo fuiste muy buena y me ayudaste, me siento agradecida” (“With heartfelt and fully sincerely, I wish that you are well, with me you were very good and you helped me, I feel grateful.”); and (iv) an email from an Ombudsperson to the Vice President, South Asia Region, informing him that he received many compliments from staff about the Applicant’s management of the office.

68. In her written statement, the Applicant also proposed ten individuals as witnesses to interview. Based on EBC’s review of the Applicant’s witness list and the relevance to the allegations, EBC interviewed the former Human Resources (HR) Business Partner for X Country and the Vice President, South Asia Region, on 16 June 2020.

The Applicant’s response to EBC’s draft investigation report

69. On 31 August 2020, EBC sent its draft investigation report to the Applicant for her review and response.

70. On 2 October 2020, the Applicant provided EBC with her response to EBC’s draft investigation report and included twenty-five appendices. In her response, the Applicant stated that she felt “ashamed and embarrassed by the mistakes [she] made in allowing staff to assist with [her] personal tasks.” However, she refuted the amount of time spent on personal tasks, and estimated the time the Executive Assistant spent at “less than two and a half percent (2.5%).”

71. The Applicant further stated in her response that, although she did “raise [her] voice in frustration a couple of times in the spring of 2019,” that did not constitute “three (3) years of verbal, much less physical, abuse as claimed in the report.” She also took “exception to exaggerations and statements” about her three-year tenure in the X Country Office.

72. The Applicant stated in her response that she had been at a “disadvantage” throughout the investigative process because she no longer had access to her local cell phone in X Country to be able to provide WhatsApp messages and other messages in her defense.

73. Finally, the Applicant stated:

In determining the appropriate penalty for the transgressions I admit to, i.e., asking staff to perform personal tasks for me, I kindly request that the [HRDVP] take into account, as mitigating factors, the fact that I never had such an issue before in my 20+ years at the Bank, and that I was/am very successful and well-liked in my previous assignment as Resident Representative [...] and also in my current assignment as [Manager of Operations] [...]. Finally, despite my being successful in getting our loans approved in very difficult circumstances, acknowledged by my CD [Country Director] as “extremely effective” [...], I was punished with an SRI [Salary Review Increase rating] of 2 last FY [Fiscal Year], without any heads-up or follow-on conversation. Given the difficult relationship with my CD [...], I decided not to challenge it.

EBC Final Investigation Report findings

74. On 14 October 2020, EBC’s Chief Ethics Officer submitted the Final Investigation Report (Final Report) to the HRDVP for her review and determination. The Final Report was headed by an “Executive Summary.”

75. The Final Report stated that – based on a “careful review of the totality of the evidence” gathered, including the interviews of eight complaining staff members, the Applicant, and ten relevant witnesses (including non-WBG staff) – EBC “determined that there is sufficient evidence to substantiate the allegations of hostile work environment, unauthorized use of Bank Group staff, and abuse of authority” against the Applicant.

76. EBC stated that (i) eight out of nine staff members from the X Country Office alleged that the Applicant “engaged in unwelcome verbal and physical behavior” that created a hostile work environment and (ii) three of the eight complainants also alleged that the Applicant routinely asked them to “perform personal errands for her during official Bank hours and also during their personal time.”

77. Further, EBC found that

the allegations (hostile work environment, unauthorized use of Bank Group staff and abuse of authority) are closely related. Namely, given [the Applicant's] position of power and her role in the office, the alleged unauthorized use of Bank Group staff also amounted to her abusing her authority and this had an impact in assessing the allegations of hostile work environment. The evidence shows that [the Applicant's] use of her position of authority in the office to routinely ask staff to perform tasks of a personal nature made staff feel uncomfortable, intimidated and mistreated. [The Executive Assistant] and [the Driver] stated that they performed those personal errands because they were afraid that if they did not, they would lose their jobs. Thus, the unauthorized use of Bank staff and abuse of authority contributed to creating a hostile work environment.

78. EBC noted the following as mitigating factors: (i) the Applicant “showed remorse and expressed her apologies” for having engaged in unauthorized use of Bank Group staff, (ii) there is “no evidence that the Applicant engaged in similar inappropriate behavior in her current assignment [...] and/or prior assignments,” and (iii) the Applicant “has received glowing reviews about her managerial and interpersonal skills in her current posting.”

The HRDVP's decision

79. On 1 February 2021, the HRDVP wrote to the Applicant to notify her of the HRDVP's decision with regard to the misconduct allegations. The letter stated that, following “a careful and thorough review” of EBC's Final Report, the HRDVP determined that there was sufficient evidence to support a finding that the Applicant had engaged in misconduct, as defined under the following:

Staff Rule 3.00, paragraph 6.01, “Allegations of Misconduct Addressed by EBC”:

- 1) Paragraph 6.01 (a) – Failure to observe obligations relating to the unauthorized use of Bank Group Staff; abuse of authority;
- 2) Paragraph 6.01 (b) – Reckless failure to identify, or failure to observe, generally applicable norms of prudent professional conduct;

- 3) Paragraph 6.01 (c) – Acts or omissions in conflict with the general obligations of staff members set forth in Principle 3, “General Obligations of Staff Members,” of the Principles of Staff Employment, including the requirements that staff avoid situations and activities that might reflect adversely on the Organizations (Principle 3.1) and conduct themselves at all times in a manner befitting their status as employees of an international organization (Principle 3.1(c)); and
- 4) Paragraph 6.01 (e) – Harassment; contributing to a hostile work environment. See also, World Bank Group Guidance – Anti-Harassment: Catalogue No. HRD 10.03-GUID.101.

80. The HRDVP continued:

The World Bank Group Guidance on Anti-Harassment states, in part, “... Staff shall treat each other with courtesy and respect in all interactions whether with supervisors, peers or subordinates, and in all work situations including Official Travel or mission, and outside of normal work environment. Staff shall act with tolerance, sensitivity, and respect for cultural differences in their interaction with others at the workplace.” Further, the WBG’s Code of Conduct provides that “impact – not intent – is the key factor. If conduct is reasonably perceived to be offensive or intimidating – whether or not it was intended to be so – it should be stopped.”

In its Final Report, EBC found that, given your position of power and your role as Country Manager in the [X] Country Office, your unauthorized use of Bank Group staff amounted to an abuse of authority. In particular, the evidence revealed that your use of your position of authority to routinely request staff to perform your personal tasks made them feel uncomfortable, intimidated and mistreated. As such, your unauthorized use of Bank Group staff and abuse of authority contributed to creating a hostile work environment.

In your statements to EBC, you admit that, during your three-year tenure as Country Manager in the [X] Country Office, you routinely requested some of the staff to perform your personal tasks, such as making your hair and nail appointments, dropping off and picking up your laundry, arranging for repairs at your apartment, making preparations for your personal dinners and parties, keeping track of your housekeeper’s hours, and sending you weekly reports on the status of your bank accounts. According to your calculations, such tasks did not take up a significant amount of their time. The staff, on the other hand, reported that they spent close to half of their official Bank hours and even some of their personal time completing your personal errands. In addition, they noted that they did not raise any objection or show displeasure because they were afraid. A majority of the country office staff also reported that you often behaved in a hostile or aggressive manner toward them, including shouting at them and making belittling remarks to them. Further, I

understand that, on one occasion, you confronted the staff in a team meeting about the results of your 360 Assessment Report, which made them feel very uneasy.

81. Regarding mitigating factors, the HRDVP noted that the Applicant “showed remorse and expressed [her] apologies for having engaged in unauthorized use of Bank Group staff.” The HRDVP further noted to the Applicant that “there is no evidence that you have engaged in similar inappropriate behavior in your current assignment in [...] nor in any prior assignments. Rather, you have most recently received glowing reviews about your managerial and interpersonal skills.”

82. The HRDVP further noted:

While you deny ever shouting or being offensive toward the staff, the Final Report shows that eight of nine staff members from the [X] Country Office mentioned that you engaged in some type of unwelcome verbal or physical conduct that was hostile or intimidating and made them feel uncomfortable. I find it troubling that, in light of the significant power differential, especially with regard to local staff in a country office environment, you engaged in such abusive behavior, including the unauthorized use of Bank Group staff for your personal needs. I agree with EBC that your actions amounted to a hostile work environment. I remind you that, as a manager working for the WBG, you are expected to uphold the highest professional standards, including treating all staff and colleagues with respect while being mindful of potential power imbalances and cultural sensitivities in the work environment to better manage interpersonal relationships.

83. After considering the entire record, the HRDVP imposed the following disciplinary measures “effective upon [the Applicant’s] receipt of this letter”:

- (1) demotion from [the Applicant’s] managerial GH-level position to a technical GH-level position with accompanying title change, effective July 1, 2021;
- (2) reduction in future pay equivalent to salary increase for the year in which the misconduct occurred, i.e., FY 19; and
- (3) written censure, in the form of this letter, to remain in your HR record for a period of three (3) years.

84. Additionally, the HRDVP requested that the Applicant “enroll in an appropriate training course focused on people management and/or interpersonal skills” and “provide a written apology to the staff from the [X] Country Office.”

85. On 9 February 2021, the Manager of HR Development, Corporate Operations emailed the Applicant, stating:

With regard to the decision letter in EBC Case No. 2019-3760 sent to you on February 2, 2021, please note there was a typo in disciplinary measure no. 2, “reduction in future pay equivalent to salary increase for the year in which the misconduct occurred, i.e., FY19.” The highlighted portion should read “FY18,” which directly corresponds to the various incidents of misconduct that took place during your three-year tenure as Country Manager in the [X] Country Office.

As stated in the letter, this disciplinary measure will become effective immediately.

86. On 12 February 2021, the Applicant replied, stating, “Thank you for your message. I acknowledge receipt.”

The present Application and remedies sought

87. On 18 June 2021, the Applicant filed the present Application with the Tribunal. The Applicant challenges the HRDVP’s determination that the Applicant engaged in misconduct and the disciplinary measures imposed therein.

88. The Applicant requests the following relief:

- Rescission of the 1 February 2021 misconduct determination “except as to the limited conduct [the Applicant] acknowledged and apologized for during EBC’s investigation”
- Rescission of the demotion sanctions and “restoring her to a managerial Level GH position”
- Rescission of the salary reduction sanctions and “appropriate compensation for the same”
- Reduction of the time period the HRDVP’s decision letter will remain in her personnel file
- “[A]n amount deemed just and reasonable by the Tribunal to remedy the damages to her career and professional reputation resulting from the unjust disciplinary sanctions”

89. The Applicant claims legal fees and costs in the amount of \$34,287.50.

SUMMARY OF THE CONTENTIONS OF THE PARTIES

The Applicant's Contention No. 1

EBC's Final Report is misleading in numerous respects and presents a biased and distorted factual record

90. The Applicant contends that, beyond the reporting of the Applicant's acknowledgment that she asked the Executive Assistant and the Driver to handle various personal tasks for her throughout her tenure in the X Country Office, EBC's Final Report is "riddled with overstatements, omissions, inconsistencies, subjective impressions, hearsay, and unsubstantiated facts that present a severely distorted factual record" upon which the HRDVP based her disciplinary decision. The Applicant detailed these contentions with respect to both the (i) executive summary and (ii) remainder of the Final Report.

Executive summary

91. The Applicant contends that the Final Report's executive summary is biased and contains at least four material misrepresentations of the findings.

92. The Applicant first asserts that, in paragraph 1 of the Final Report, EBC states that "the entire staff of the [X] Country Office (nine individuals) met with [the Country Director] and reported, while crying, that [the Applicant] subjected them to verbal abuse and intimidation and other abusive behavior," yet EBC does not acknowledge until paragraph 126 that one of those staff members, the Team Assistant, did not wish to file a complaint against the Applicant. Further, the Applicant asserts that the Final Report entirely omits the Team Assistant's explanation that she cried during this meeting because she felt compelled to join her colleagues even though she believed that the Applicant "really helped" her and "put order in the office" when she arrived.

93. Next, the Applicant asserts that, in paragraph 2 of the Final Report, EBC mentions particularly prejudicial language used by the Country Director in her report but fails to identify it as hearsay, which according to the Applicant, citing *BB*, Decision No. 426 [2009], para. 78, the Tribunal has recognized is “not credible.” The Applicant further asserts that “only 49 paragraphs later does it eventually become clear that [the Country Director] did not have any direct knowledge of issues between [the Applicant] and her staff.” To the Applicant, only after reading the full report does it become apparent that none of the numerous witnesses with firsthand knowledge used this language in their own testimony.

94. Third, the Applicant avers that EBC states in paragraph 9 that the Applicant asked the Program Assistant/RWA for positive feedback on her 2019 IMPACT assessment report; however, EBC does not acknowledge until paragraph 82 that the Program Assistant/RWA felt neither pressured nor intimidated by the request, or that the Applicant had already left her position as Country Manager for X Country before making the request. According to the Applicant, EBC itself ultimately acknowledged that the Applicant’s request did not contribute to a hostile work environment as opposed to merely “reflect[ing] poor [judgment],” but this conclusion is “buried” in paragraph 253 of the Final Report.

95. Finally, the Applicant contends that, in paragraphs 12 and 245, EBC states that the Applicant engaged in unwelcome “physical” as well as verbal behavior, yet nowhere in EBC’s recounting of fourteen fact witness interviews is there any mention of physical behavior, unwelcome or otherwise, by the Applicant.

Remainder of EBC’s Final Report

96. The Applicant contends that the remainder of the Final Report “compounds the biased portrayal in the executive summary with at least seven additional material distortions of the factual record,” many of which the Applicant states that the HRDVP “explicitly or necessarily relied on” in rendering her disciplinary decision.

97. First, as to the allegations of unauthorized use of staff, the Applicant contends that EBC “reported as fact and repeated” the Executive Assistant’s claim that she spent 40% of her working time on personal tasks for the Applicant even though the Executive Assistant provided three different estimates during her EBC interview. The Applicant asserts that EBC presented these findings despite (i) making no effort to assess their credibility and (ii) the “facially implausible” notion, given the “minor nature of the tasks,” that the Executive Assistant somehow spent two full workdays per week scheduling the Applicant’s hair appointments or paying her bills. Further, the Applicant avers that EBC dismissed out of hand the Applicant’s own detailed task-by-task estimate without offering an explanation for doubting the accuracy of the Applicant’s analysis and crediting the Executive Assistant’s estimate.

98. Second, as to the May 2018 meeting concerning the Applicant’s 360 assessment, the Applicant contends that the factual record shows that a majority of the participants did not actually perceive it as intimidating, contrary to EBC’s finding. The Applicant asserts that, despite EBC concluding that the Applicant “behaved in an intimidating manner” based on six of the seven participants testifying to feeling “confronted” or “uncomfortable,” (i) both the Program Assistant/RWA and the Program Assistant specifically denied feeling intimidated, (ii) the Resource Management Analyst never used the word “confronted” to describe the meeting and specifically denied that he or other staff members were concerned about retaliation, and (iii) the Team Assistant did not wish to make a complaint against the Applicant despite finding the meeting to be “uncomfortable.”

99. Third, the Applicant asserts that EBC ascribed particular weight to the Team Assistant’s testimony about feeling “confronted” in the May 2018 meeting even though this testimony was elicited through a leading question, and thus should have been given limited weight, citing *CJ*, Decision No. 497 [2014], para. 76. To the Applicant,

[e]ven if [the Team Assistant] had come up with this word on her own, however, it would still not necessarily merit any particular weight. This is because her testimony, like that of the other staff members who attended the May 2018 meeting, appears to primarily reflect their stories coalescing into a consistently worded narrative over the course of multiple group sessions with [the Country Director] and [the Acting Country Manager for X Country] rather than each staff member

having precisely identical feelings coming out of the meeting nearly a year and a half prior to their EBC interviews.

100. Fourth, the Applicant avers that the factual record shows that the testimony of “two-thirds of the Country Office staff does not support EBC’s raised voice/angry manner conclusion.” The Applicant further contends that, in concluding “that there is sufficient evidence to corroborate the allegations that [the Applicant] raised her voice at her staff and spoke to them in an angry manner,” EBC disregarded the fact that (i) three staff members specifically denied that the Applicant ever yelled at them, (ii) two additional staff members did not report any such behavior, and (iii) a sixth staff member, the Team Assistant – who declined to file a complaint – reported that the Applicant yelled at her on a single occasion over three years and then apologized.

101. Fifth, the Applicant contends that the three Country Office staff members other than the Team Assistant who spoke of the Applicant raising her voice at them personally were collectively able to describe “only three isolated occurrences of such behavior over the course of three years.” Specifically, the Applicant contends that (i) the Executive Assistant was able to recount only “one occasion” in which the Applicant allegedly yelled at her and “specifically denied that the Applicant yelled at her on any other occasion,” (ii) the Program Assistant/RWA described two occasions in which the Applicant raised her voice while “specifically rejecting the EBC investigator’s suggestion that the Applicant ‘screamed’ at her,” and (iii) the Senior Operations Officer described a single instance of the Applicant raising her voice that appears to be one of the instances referenced by the Program Assistant/RWA.

102. Sixth, the Applicant asserts that

EBC concluded without explanation that it “ha[d] no reasons to question the [...] credibility” of [the Executive Assistant], [the Resource Management Analyst], and [the Program Assistant] even though the record strongly suggests that their testimony during EBC’s 2018 inquiry was inconsistent with how they later testified in the current investigation. Specifically, this prior testimony was taken in the context of allegations against [the Applicant] substantially similar to those under investigation here and presumably pertained to at least some of the same events including the May 2018 meeting relating to [the Applicant’s] 360 Assessment, which took place approximately two months before the anonymous allegations were made against [the Applicant] in July 2018. [...] Yet in 2018, EBC closed its

investigation at the “Initial Review” stage due to insufficient evidence of misconduct to warrant a full investigation, [...] while here it relied heavily on these witnesses, particularly [the Executive Assistant], in concluding that misconduct had occurred.

103. Seventh, as to the evidentiary value of the IFC witnesses’ “corroboration” of the hostile work environment, the Applicant avers that their “supposed ‘independen[ce]’ (in the limited sense of not being complainants themselves) [...] does not change the fact that their testimony did little beyond merely confirming the three isolated raised voice/angry manner incidents to which the Executive Assistant, the Resource Management Analyst, and the Program Assistant testified.” Specifically, the Applicant contends that (i) the IFC Program Assistant corroborated the single occasion involving the Executive Assistant, (ii) the IFC Investment Officer referenced one of the two occasions involving the Program Assistant/RWA, and (iii) the IFC Country Head “testified vaguely” to “a couple of occasions” in which the Applicant spoke to the Executive Assistant in a “very high tone of voice.” Beyond that, according to the Applicant, all three witnesses testified to their general impressions as to “tension” or “fear” or “hostility” in the office. Despite these impressions, the Applicant contends that the Tribunal has recognized that such “subjective impressions” are insufficient to carry the Bank’s burden of proof.

The Bank’s Response

EBC produced a fair and balanced Final Report

104. The Bank contends that EBC fairly represented the Applicant’s statements, testimony, and exhibits and incorporated them into the Final Report, thereby producing a fair and balanced Final Report. The Bank asserts that EBC (i) interviewed eighteen witnesses, some of whom were proposed by the Applicant, (ii) reviewed documents the witnesses provided in support of their allegations, and (iii) reviewed and considered the Applicant’s comments on her transcripts as well as her comments on the draft investigation report. The Bank further asserts that EBC reviewed and considered the forty-four documents the Applicant submitted in support of her statements.

105. The Bank contends that EBC’s investigation and Final Report satisfy the standards set forth by the Tribunal, citing *FW and FX*, Decision No. 649 [2021], para. 201:

The Tribunal recalls that in *Rendall-Speranza*, [Decision No. 197] [1998], para. 57, the Tribunal stated:

In order to assess whether the investigation was carried out fairly, it is necessary to appreciate the nature of the investigation and its role within the context of disciplinary proceedings. After a complaint of misconduct is filed, an investigation is to be undertaken in order to develop a factual record on which the Bank might choose to implement disciplinary measures. The investigation is of an administrative, and not an adjudicatory, nature. It is part of the grievance system internal to the Bank. The purpose is to gather information, and to establish and find facts, so that the Bank can decide whether to impose disciplinary measures or to take any other action pursuant to the Staff Rules. The concerns for due process in such a context relate to the development of a fair and full record of facts, and to the conduct of the investigation in a fair and impartial manner. They do not necessarily require conformity to all the technicalities of judicial proceedings.

106. Finally, the Bank avers that EBC's Final Report does not portray the Applicant's behavior in a positive light and that, consequently, it is "easy to understand why [the] Applicant believes that EBC's findings were severely distorted." However, the Bank contends that just because the Applicant does not like or agree with some of the characterizations, or some of the findings, that does not mean the Final Report deprived the Applicant of her right to an accurate factual record.

The Applicant's Contention No. 2

The HRDVP's disciplinary decision is not supported by substantial evidence because it explicitly and implicitly relies on EBC's flawed findings of fact

107. The Applicant contends that the HRDVP expressly relied on "at least four of EBC's misleadingly presented findings and conclusions" in reaching her disciplinary decision.

108. First, with respect to the finding of unauthorized use of staff, the Applicant contends that the HRDVP expressly referenced the Executive Assistant's claim that she spent "close to half" of her work time on personal tasks for the Applicant "without any acknowledgment or apparent recognition" that (i) the Executive Assistant testified inconsistently on this point, (ii) EBC failed

to assess the credibility of this claim, or (iii) the Executive Assistant's estimate was implausible on its face in light of the tasks at issue, which the Applicant claims were not materially in dispute.

109. Second, as to the May 2018 meeting about the Applicant's 360 assessment, the Applicant asserts that the HRDVP stated that her understanding that the Applicant "confronted" the staff in a way that "made them feel very uneasy" was made without any acknowledgment or apparent recognition that (i) the Applicant neither raised her voice nor made any threats in this meeting or (ii) four of the seven staff members in attendance did not actually feel intimidated or fear retaliation as a result of the Applicant's conduct.

110. Third, as to the "raised voice/angry manner allegations," the Applicant avers that the HRDVP stated that "[a] majority" or "eight of nine" Country Office staff reported that she exhibited hostile, aggressive, or intimidating behavior toward them without any acknowledgment or apparent recognition that, apart from the 360 assessment meeting, only three of nine staff members reported the Applicant raising her voice at them directly for a "grand total of three occasions over three years."

111. Fourth, the Applicant contends that, although the HRDVP expressly repeated EBC's assertion of unwelcome "physical" conduct, there is nothing in the record relating to physical conduct of any sort.

The Bank's Response

The HRDVP's disciplinary decision is supported by substantial evidence

112. The Bank contends that there is substantial evidence in the record, including the Applicant's own admissions that she asked staff members to perform personal tasks on her behalf and raised her voice at staff on three occasions, to support the HRDVP's disciplinary decision.

113. First, the Bank contends that the Applicant "has admitted to the abuse of authority charge in that she readily acknowledges that she used Bank staff to perform personal tasks for her." The Bank asserts that

[the] Applicant tries to diminish the abuse by attempting to illustrate that the abuse was not as widespread or frequent as the witnesses reported. [The] Applicant goes to great lengths to do so and produces two self-made documents where she provides her estimates of the amount of time each task should have reasonably taken in order to discredit the Executive Assistant's perception that as much as 40% of the Executive Assistant's time was dedicated to [the] Applicant's personal tasks. [...] In so doing, [the] Applicant demonstrates a lack of awareness of the seriousness of her abuse of authority and completely trivializes the staff's legitimate complaints. More importantly, [the] Applicant misses the point entirely – no amount of abuse is acceptable.

114. Further, the Bank asserts that “many of the tasks” described by the Executive Assistant, the Program Assistant/RWA, and the Driver were not accounted for in the “Applicant’s charts” that she submitted to EBC.

115. The Bank avers that the Applicant’s abuse of authority was “egregious, repetitive, and occurred throughout” her three-year tenure in the X Country Office. Furthermore, to the Bank, the Applicant’s argument that it is implausible that the tasks she asked the Executive Assistant to perform amounted to 40% of her working time is “inconsequential” because “[n]one of these tasks should have been performed by staff.”

116. Second, with regard to the May 2018 staff meeting to discuss the Applicant’s 360 assessment, the Bank contends that the record shows that six of seven staff members in attendance (i) stated that the Applicant appeared angry, (ii) “expressed similar feelings of being uncomfortable,” and (iii) felt like they were being confronted by the Applicant. In the Bank’s view, the Applicant’s contention that the purpose of discussing the feedback was not to confront staff but rather to understand the feedback “is immaterial and demonstrates [the] Applicant’s lack of knowledge of the Code of Conduct, the Guidance on Anti-Harassment, the Staff Rules as well as the Principles of Staff Employment.” The Bank asserts that “the issue here is her behavior, demeanor, and her actions, not her intent.”

117. Further, with regard to that meeting, the Bank contends that – despite the Applicant (i) acknowledging that she was “hurt enough to be emotional” about the feedback, (ii) confirming that she may have teared up or that her voice cracked, and (iii) denying being angry or raising her

voice – the “record overwhelmingly indicates” that her behavior was perceived as being “confrontational, disrespectful, and that staff felt uncomfortable.”

118. Third, the Bank contends that there is substantial and “overwhelming” evidence in the record indicating that the Applicant “clearly engaged in a pattern of behavior that created a hostile work environment.” To support this contention, the Bank cites several witness statements and documentary evidence in the record to show that the

Applicant was moody, difficult to work with, belittled staff, made inappropriate comments on staff’s physical appearances, yelled at staff (one time for no apparent reason), completely ignored other staff, and [...] reduced one staff member’s functions because [the] Applicant could not get along with him. Staff recount feeling scared, depressed, sad, intimidated, and wanting to quit their jobs because of [the] Applicant’s behavior.

The Applicant’s Contention No. 3

The sanctions imposed on the Applicant are disproportionate in light of the limited scope of the misconduct substantiated and the significant mitigating factors presented here

119. The Applicant contends that the sanctions imposed on her, “particularly the demotion,” are “undeniably harsh” and disproportionate to the misconduct at issue “for at least three reasons.”

120. First, the Applicant contends that the sanctions were based on the HRDVP’s “exaggerated understanding of the misconduct that actually occurred.” The Applicant asserts that the HRDVP (i) “overstated the severity” of the unauthorized use of staff finding by relying on the Executive Assistant’s “implausible” claim that she spent approximately 40% of her time handling the Applicant’s personal matters and (ii) premised the hostile work environment finding on the “mistaken belief” that the Applicant “verbally or physically abused or intimidated” eight of nine staff members by “merely raising her voice three times over three years” and making certain staff members “uneasy” in a “single meeting.” The Applicant asserts that, “instead, the limited – approximately two percent of the Executive Assistant’s time – misuse of staff for personal tasks” estimated by the Applicant “provides the only appropriate basis for sanctions and, when that adjustment is made, the sanctions should be reduced accordingly.”

121. Second, the Applicant avers that the salary reduction component of the sanctions is “unfairly duplicative of the financial penalty” the Applicant suffered by virtue of the Country Director giving her an SRI rating of 2 for her last year in the X Country Office, resulting in no salary increase for FY 2019. The Applicant asserts that the Country Director did not provide her with a written performance evaluation for FY 2019 that would have provided another explanation for the rating. Elaborating on this point, the Applicant further asserts:

Specifically, this rating was necessarily based on the same alleged managerial issues under examination in this case rather than any performance-related issues given [the Country Director’s] testimony that [the Applicant] was otherwise “‘extremely effective’ in the discharge of her duties.” [...] And both the FY 2019 non-increase and the salary reduction imposed here have the exact same effect – reducing [the Applicant’s] baseline salary for purposes of any future increases she may receive and thus her earnings for the remainder of her Bank career.

122. Third, the Applicant contends that, even if the Tribunal were to affirm some part of the hostile work environment findings, “this should still not add materially to the sanctions imposed” because EBC’s and the HRDVP’s hostile work environment conclusions were based “in substantial part on their misuse of staff findings.” The Applicant asserts, “Put differently, [the Applicant] should not be punished more harshly for the exact same course of conduct merely because it fits within two different misconduct labels under Staff Rule 3.00, paragraph 6.01.” The Applicant contends that this same logic would apply to the abuse of authority findings, which the Applicant states that both EBC and the HRDVP “appeared to recognize were entirely coextensive with their misuse of staff findings.”

123. Additionally, the Applicant avers that, although the HRDVP acknowledged in her decision letter that the Applicant “recently received glowing reviews about [her] managerial and interpersonal skills” in her next assignment and purported to take that into account as a mitigating factor, the sanctions imposed by the HRDVP – particularly the demotion removing the Applicant from the Manager of Operations role in which she enjoyed “a high degree of success” – show that the HRDVP did not “seem to do so in any meaningful way.” The Applicant asserts that, instead, the “lesser disciplinary measures” such as the written apology and the training the HRDVP

requested that she enroll in “offer a more appropriate means of sanctioning the inappropriate managerial conduct [the Applicant] acknowledged and apologized for.”

The Bank’s Response

The disciplinary measures imposed are provided for under the Staff Rules and meet the Tribunal’s standard for proportionality

124. The Bank contends that the disciplinary measures imposed on the Applicant are provided for in the Staff Rules. To the Bank, all of the measures – namely the (i) “demotion,” which the Bank states is not a demotion but rather a reclassification from a GH-level managerial to technical position; (ii) reduction in salary equivalent to the salary increase for the year in which the misconduct occurred; and (iii) temporary written censure on the Applicant’s personnel file – are expressly referenced in Staff Rule 3.00, paragraph 10.06, as sanctions applicable to misconduct.

125. The Bank refutes the Applicant’s contention that the disciplinary sanctions imposed are “undeniably harsh,” as well as the three reasons given by the Applicant to support her contention: that the (i) HRDVP overstated the severity of the unauthorized use of staff, (ii) salary reduction was unfairly duplicative as the Applicant had already received an SRI rating of 2 for her last year in the X Country Office, and (iii) Applicant should not be punished more harshly because the misconduct fits into two different labels, specifically, (a) abuse of authority and (b) creating a hostile work environment.

126. The Bank first contends that the Applicant’s arguments demonstrate her failure to grasp the severity of her conduct as well as the impact her behavior had on others, further evidencing that the sanctions were appropriate. The Bank claims that the Applicant readily admits to routinely requesting staff to perform personal tasks for the Applicant’s personal benefit, yet “quibbles over the amount of time staff was engaged in the performance of personal tasks” on the Applicant’s behalf, including

- making hair and nail appointments;
- dropping off and picking up the Applicant’s laundry;

- arranging for repairs at the Applicant's apartment, including on weekends;
- making preparations for the Applicant's personal dinners and parties;
- keeping track of the Applicant's housekeeper's hours;
- making personal travel reservations; and
- sending weekly reports on the status of the Applicant's bank accounts.

127. The Bank avers that the Applicant has readily admitted to abusing her authority by requesting staff to perform such tasks over the entire time she was Country Manager for X Country. The Bank contends that “[t]his alone warrants each of the disciplinary measures imposed.”

128. The Bank contends that the HRDVP was particularly troubled with the power differential between the Applicant and staff in the X Country Office as well as the fact that eight out of nine of the Country Office staff reported some form of conduct by the Applicant that was hostile or intimidating. The Bank further contends that, consequently, the HRDVP determined that a demotion was an appropriate sanction. The Bank states that “[i]n reality” the Applicant was not demoted *per se*, but rather reclassified from a GH managerial position to a GH technical position. The Bank further states that the Applicant is no longer in a managerial role and does not supervise staff. To the Bank, given that the Applicant abused her managerial authority, this sanction is completely appropriate and proportionate.

129. The Bank contends that the HRDVP's decision to remove managerial responsibility from the Applicant was reasonable and aligned with the interests of the institution. The Bank asserts that “it is a privilege to serve the institution, not a right, and with such privilege comes great responsibility.” To the Bank, the facts demonstrate that the Applicant “abused her authority continuously” and created a hostile work environment over a three-year period. The Bank claims that this behavior is “entirely incompatible” with the professional and ethical conduct expected of staff in general, “let alone of a Country Manager.” The Bank contends that this conduct is inconsistent with the expectations of “prudent professional conduct” and “should not be condoned.”

130. Second, with regard to the Applicant's assertion that her salary reduction was unfairly duplicative, the Bank contends that the Applicant is "comparing apples to oranges." The Bank states that the Country Director, responsible for assessing the Applicant's performance, assigned the Applicant an SRI rating of 2 for FY 2019. According to the Bank,

[t]his did not result in a salary reduction, but rather as a result of the SRI [rating] of 2, [the] Applicant was not entitled to a salary increase. Following a determination of misconduct, the [HRDVP] imposed a salary reduction as a sanction for [the] Applicant's misconduct. The two are not the same and are not duplicative as [the] Applicant suggests but rather result from two very different courses of action, which ultimately have different results. [The] Applicant's salary before the disciplinary sanction was US\$187,600. [...] [The] Applicant stated that the salary reduction imposed as a disciplinary measure resulted in a US\$5,670 reduction to her salary, leaving her with an annual salary of US\$181,930. This can hardly be considered as unfairly harsh given the impact [the] Applicant's actions had on the Country Office staff. As described above, some staff have suffered lingering effects as a result of [the] Applicant's behavior which caused staff to adopt detrimental coping mechanisms as a way to survive [the] Applicant's abuse.

131. Third, the Bank contends that the Applicant's final argument that she should not be more severely punished because her behavior fits into two categories of misconduct, namely (i) abuse of authority and (ii) creating a hostile work environment, "is nonsensical." The Bank asserts that the Applicant readily admits to abusing her authority over the entire three years she served in the X Country Office as Country Manager. The Bank asserts that this misconduct alone would warrant the sanctions imposed. However, in the Bank's view, the Applicant's misconduct was compounded by her additional unprofessional behavior and poor judgment. Specifically, the Bank avers that

- Eight out of nine of the Country Office staff reported some form of unwelcome behavior;
- The Applicant routinely belittled staff, made inappropriate comments on staff's physical appearances (including commenting on a staff member's weight), and yelled at staff;
- The Applicant actively solicited a positive assessment because she knew other staff would provide a negative review; and
- The Applicant confronted staff about negative comments she received in a 360 assessment.

132. The Bank contends that the disciplinary sanctions imposed are balanced with the Applicant's "egregious, systematic, [and] widespread misconduct." The Bank further contends that, "[i]f anything, it can be argued that the Applicant got off with the proverbial slap on the wrist."

133. Finally, the Bank addresses the Applicant's contention that the HRDVP failed to take into consideration, in any "meaningful" way, the Applicant's "glowing reviews" concerning her managerial and interpersonal skills in her next assignment as a mitigating factor.

134. The Bank first contends that, prior to determining the appropriate sanctions, the HRDVP did consider the Applicant's behavior in her next post as well as her previous assignments, as explicitly stated in the decision letter: "By way of mitigating factors, [...] there is no evidence that you have engaged in similar inappropriate behavior in your current assignment in [...] nor in any prior assignments. Rather, you have most recently received glowing reviews about your managerial and interpersonal skills."

135. Second, the Bank contends that, in *FW and FX* [2021], para. 191, the Tribunal made a distinction between misconduct against the institution and misconduct against the individual. The Bank states that the Tribunal found that a staff member's performance may be a legitimate mitigating factor in cases of misconduct against the institution. However, the Bank avers that, in instances of misconduct against the individual, as in this case, "the harm is to the person" or in this case several people. Therefore, in the Bank's view, the Applicant's performance record at the Bank should not be given consideration as a mitigating factor.

The Applicant's Contention No. 4

The Bank violated the Applicant's due process rights in the investigatory and disciplinary process

136. The Applicant contends that EBC and the HRDVP violated the Applicant's due process rights "in the investigatory and disciplinary process in at least three critical respects."

137. The Applicant first asserts that EBC provided the HRDVP with a “severely distorted set of findings and conclusions” and in doing so deprived the Applicant of her “fundamental right” as a staff member to a disciplinary decision based on an “objective and accurate” factual record.

138. Second, the Applicant avers that

EBC failed to make the contents of [the Executive Assistant’s], [the Resource Management Analyst’s], and [the Program Assistant’s] 2018 EBC interviews available to [the Applicant] even though [...] there is good reason to think that their prior testimony was at least partially inconsistent with the testimony that EBC credited here and thus potentially exculpatory vis-à-vis [the Applicant]. [...] As the Tribunal has noted, such “[e]xculpatory witness testimony will, in principle, always be material,” and for this reason, “it is difficult to conceive of a situation in which [the Bank] would be entitled to withhold witness testimony that has any material relevance to the allegations.” *See CF*, Decision No. 486 [2014], para. 209. Here, however, that is precisely what happened and, for this reason, [the Applicant] was denied the full opportunity and ability to defend herself against these witnesses’ testimony against her.

139. Third, the Applicant asserts that, as to the hostile work environment findings, neither the HRDVP nor EBC “even attempted to articulate a standard for when merely less-than-pleasant conduct crosses the line into prohibited hostility” or “referenced any rules or any other guidance that may have provided advance notice as to the contours of such a standard.” Rather, to the Applicant, the HRDVP and EBC appeared to reach their conclusions under the principle of “I know it when I see it.” The Applicant further asserts:

Rudimentary principles of due process and basic fairness demand more. Indeed, as this Tribunal has previously observed, drawing such a clear line between sanctionable and non-sanctionable conduct is important for all staff members involved. *See DN*, Decision No. 544 [2016], para 68 (observing that even knowingly unwelcome conduct does not necessarily create a hostile work environment); *Schiesari*, Decision No. 314 [2008], para. 34 (concluding that receiving performance-related criticism or other stressful interactions with a manager does not give rise to “an actionable hostile environment”). Conversely, where those lines are less than clear, staff members are deprived of fair notice as to what types of conduct are potentially punishable as misconduct and are thus entitled to the benefit of the doubt.

140. To the Applicant, such “benefit of the doubt is warranted” in the present case with respect to the (i) “raised voice/angry manner” findings and (ii) findings pertaining to the May 2018 staff meeting regarding the Applicant’s 360 assessment. With regard to the former, the Applicant claims that, “if raising one’s voice three times over the course of a three-year assignment managing nine staff members is sufficient” to support a hostile work environment finding, then the Applicant at the very least “deserved some warning going in that such a hair trigger standard applied.” As to the latter – the 360 assessment meeting – the Applicant claims that, “if hostile work environment misconduct can be premised solely on staff members’ subjective feelings of ‘unease’ even in the absence of yelling, threats, or even subjective feelings of intimidation,” then the Bank has an obligation to clearly communicate this threshold.

141. According to the Applicant, no such clarity existed during her X Country Office tenure. The Applicant further contends that neither EBC’s nor the HRDVP’s “analyses reflect any sort of principled basis for distinguishing between conduct that is merely subjectively disfavored and that which crosses over into objectively actionable misconduct.” The Applicant states that for this reason, in addition to the other substantive reasons she identified above, the hostile work environment sanctions against her should be invalidated on due process grounds.

The Bank’s Response

The requirements of due process were observed

142. As a preliminary matter, despite the Applicant’s claim that the Bank violated her due process rights in “at least three critical respects,” the Bank contends that the Applicant does not allege any violations of her due process rights as defined by the Tribunal. The Bank, citing *Kwakwa*, Decision No. 300 [2003], para. 29, asserts that the Tribunal has consistently held that

the due process requirements for framing investigations of misconduct in the context of the World Bank Group’s relations with its staff members are specific and may be summarized as follows: affected staff members must be [apprised] of the charges being investigated with reasonable clarity; they must be given a reasonably full account of the allegations and evidence brought against them; and they must be given a reasonable opportunity to respond and explain. (*See King*, Decision No. 131 [1993], paras. 35–37.)

143. To the Bank, the Applicant was accorded every due process right, consistent with the Staff Rules and the Tribunal's jurisprudence.

144. Furthermore, on a substantive basis, the Bank refutes the Applicant's argument that her due process rights were violated in three ways, namely that (i) EBC provided the HRDVP with a "severely distorted" set of findings and conclusions, (ii) EBC failed to make available the transcripts of three witnesses' testimonies to EBC as part of EBC's inquiries into the anonymous complaint submitted to EBC in July 2018, and (iii) the HRDVP and EBC failed to articulate a standard for when "merely less-than-pleasant conduct crosses the line into prohibited hostility."

145. First, the Bank contends that the EBC investigation and Final Report were fair, thorough, and impartial. The Bank asserts that the Applicant's "misplaced criticism" of EBC's investigation and Final Report relates solely to EBC's characterization of her behavior. The Bank further asserts that, just because the Applicant does not like or agree with some of the characterizations or findings, that does not mean that the Final Report deprived the Applicant of her right to an accurate factual record. The Bank contends that the Applicant does not allege that EBC failed to interview witnesses, failed to take the Applicant's documents or testimony into consideration, or disregarded her lawful due process rights in any way.

146. The Bank contends that EBC's investigation and Final Report satisfy the standards and due process requirements set forth by the Tribunal in *FW and FX* [2021], para. 201.

147. With regard to the Applicant's second due process allegation, the Bank contends that EBC's Final Report simply stated, by way of background information, that there was a previous complaint lodged against the Applicant. The Bank asserts that this in no way violates the Applicant's due process rights. The Bank further asserts that EBC as well as the HRDVP did not rely on any of the evidence previously gathered as a result of the 2018 anonymous complaint. To the Bank, the Applicant's due process rights would have been violated only if EBC and/or the HRDVP relied on evidence gathered in the previous matter that had not been provided to the Applicant in order to substantiate the finding in her case.

148. Finally, with regard to the Applicant's third due process contention that the HRDVP and EBC failed to articulate a standard for when "merely less-than-pleasant conduct crosses the line into prohibited hostility," the Bank asserts that the Applicant's contention is "irreparably flawed" for two reasons.

149. First, the Bank asserts that it has provided staff with several documents that explain harassment and unprofessional behavior, most notably the WBG Guidance on Anti-Harassment, issued and effective from 7 May 2017. The Bank asserts that the Guidance explicitly provides concrete examples of what types of behaviors constitute harassment. By way of example, the Bank cites paragraph 6, which states that "[e]xamples of behaviors that may constitute Harassment" include

- a. Comments (oral, written), gestures, or physical actions;
 - b. A single incident or a repeated, continuous pattern of behavior;
 - c. Demeaning, belittling or causing personal humiliation or embarrassment;
 - d. Threatening, intimidating or verbal abuse;
 - e. Intimidating behavior that involves a real or perceived power imbalance (i.e., bullying);
- [...] [and]
- i. Severe or repeated insults related to a Staff's personal or professional competence.

150. Second, the Bank avers that it is not EBC's mandate, nor the HRDVP's, to determine such a standard. To the Bank, this determination is squarely a function of the Tribunal. The Bank states that EBC's role is that of an impartial fact-finder that investigates allegations of misconduct that fall under its specific purview and presents its finding to the HRDVP. The Bank states that the HRDVP, in turn, assesses the findings of EBC and, on a case-by-case basis, determines if misconduct has occurred. The Bank further states that, if the HRDVP determines that misconduct occurred, she then applies the appropriate sanctions, as provided for in the Staff Rules. To the

Bank, this is a natural and limited power entrusted upon the HRDVP in the legal framework of the institution.

THE TRIBUNAL’S ANALYSIS AND CONCLUSIONS

THE SCOPE OF THE TRIBUNAL’S REVIEW IN DISCIPLINARY CASES

151. The scope of the Tribunal’s review in disciplinary cases is well-established. In *Koudogbo*, Decision No. 246 [2001], para. 18, the Tribunal stated that

its scope of review in disciplinary cases is not limited to determining whether there has been an abuse of discretion. When the Tribunal reviews disciplinary cases, it “examines (i) the existence of the facts, (ii) whether they legally amount to misconduct, (iii) whether the sanction imposed is provided for in the law of the Bank, (iv) whether the sanction is not significantly disproportionate to the offence, and (v) whether the requirements of due process were observed.” (*Carew*, Decision No. 142 [1995], para. 32.)

See also, e.g., FA, Decision No. 612 [2019], para. 138; *EZ*, Decision No. 601 [2019], para. 67; *CH*, Decision No. 489 [2014], para. 22.

152. The Tribunal has held that the burden of proof in misconduct cases lies with the respondent organization. It has also stipulated on several occasions that “there must be substantial evidence to support the finding of facts which amount to misconduct.” *FQ*, Decision No. 638 [2020], para. 88. *See also FG*, Decision No. 623 [2020], para. 67; *EZ* [2019], para. 69. In other words, the standard of evidence “in disciplinary decisions leading [...] to misconduct and disciplinary sanctions must be higher than a mere balance of probabilities.” *Dambita*, Decision No. 243 [2001], para. 21.

153. The Tribunal has also stated that its role is to “ensure that a disciplinary measure falls within the legal powers of the Bank.” *M*, Decision No. 369 [2007], para. 54. This, however,

does not mean that the Tribunal is an investigative agency. The Tribunal simply takes the record as it finds it and evaluates the fact-finding methodology, the probative weight of legitimately obtained evidence, and the inherent rationale of the findings in the light of that evidence. *Id.*

154. The present case will be reviewed in light of these standards.

THE EXISTENCE OF THE FACTS AND WHETHER THEY AMOUNT TO MISCONDUCT

155. The Tribunal observes that, in EBC's Final Report, EBC claimed to have found sufficient evidence to substantiate the allegations of hostile work environment, unauthorized use of Bank Group staff, and abuse of authority against the Applicant. EBC stated that (i) eight of nine staff members from the X Country Office alleged that the Applicant "engaged in unwelcome verbal and physical behavior" that created a hostile work environment and (ii) three of the eight complainants also alleged that the Applicant routinely asked them to "perform personal errands for her during official Bank hours and also during their personal time." The Final Report stated that EBC reached its findings after a "careful review of the totality of the evidence" gathered, including the interviews of eight complaining staff members, the Applicant, and ten relevant witnesses, including non-WBG staff.

156. Based on EBC's Final Report, the HRDVP determined that there was "sufficient evidence to support a finding that [the Applicant] engaged in misconduct," referring specifically to EBC's findings in relation to

- Staff Rule 3.00, paragraph 6.01(a), namely failure to observe obligations relating to the unauthorized use of Bank Group staff and abuse of authority;
- Staff Rule 3.00, paragraph 6.01(b), namely reckless failure to identify, or failure to observe, generally applicable norms of prudent professional conduct;
- Staff Rule 3.00, paragraph 6.01(c), namely acts or omissions in conflict with general obligations of staff members set forth in Principle 3, "General Obligations of Staff Members," of the Principles of Staff Employment and Staff Rule 3.01; and
- Staff Rule 3.00, paragraph 6.01(e), namely harassment and contributing to a hostile work environment (see also, World Bank Group Guidance – Anti-Harassment: Catalogue No. HRD 10.03-GUID.101).

157. The Tribunal notes that the general category of misconduct found by the HRDVP in this matter concerns violations of Staff Rule 3.00, paragraph 6.01 (Scope of Allegations Addressed by EBC). The facts underlying the various findings of misconduct under this category are the same. The Tribunal will, therefore, consider the existence of the facts and whether, taken together, they amount to misconduct in respect of the four violations in question under Staff Rule 3.00, paragraph 6.01.

Violations of Staff Rule 3.00, paragraph 6.01 (Scope of Allegations Addressed by EBC)

158. The Applicant admits to (i) asking staff to perform personal errands for her during her tenure as Country Manager for X Country, (ii) raising her voice and speaking in an angry tone to staff, (iii) calling a meeting with staff and reading out negative comments from her 360 assessment to understand “where this was coming from,” and (iv) asking a staff member to provide her positive feedback in her IMPACT assessment report.

159. In addition to these admissions, the record indicates that the Applicant has (i) apologized and expressed remorse for requesting that staff perform personal errands for her; (ii) explained that she raised her voice in frustration a couple of times in the spring of 2019, but not over the course of three years “as claimed in the [Final] [R]eport”; and (iii) claimed that her executive coach suggested she ask staff about the negative 360 assessment feedback and clarified that she had no malice or ill-intent when she conducted the meeting regarding her 360 assessment or when she asked a staff member for positive feedback.

160. However, as provided under Staff Rule 3.00, paragraph 6.01, misconduct does not require malice or guilty purpose. Consequently, the Applicant cannot use the alleged absence of malice on her part to contend that her actions do not amount to misconduct.

161. The Tribunal will now review the facts in the record to determine whether there existed substantial evidence, higher than a mere balance of probabilities, and, if so, whether that evidence supports the HRDVP’s decision that the facts, as established, amounted to misconduct under Staff Rule 3.00, paragraphs 6.01(a), (b), (c), and (e).

162. The record shows that several staff members in the X Country Office provided testimonial and documentary evidence that the Applicant asked them to perform personal errands for her.

163. The Executive Assistant testified that the Applicant asked her to perform the following personal errands during her tenure as Country Manager for X Country:

(i) manage and reconcile her personal checking accounts ([local currency] and U.S. dollars); (ii) issue checks for [the Applicant's] personal expenses; (iii) prepare a report tracking all her expenses; (iv) send her a weekly report of her expenses; (v) pay her monthly rent; (vi) make her appointments for a manicure and pedicure once a week; (vii) make her massage appointments once a week; (viii) make her hair appointments (haircut and color) once a month; (ix) make her medical appointments (once every three months); (x) pay the salary of her housekeeper; (xi) prepare a report and keep track of the vacation days taken by the housekeeper; (xii) organize her personal parties and dinners; (xiii) make arrangement for her personal vacations (make hotel reservations); (xiv) arrange for repairs in her apartment (curtains, bathroom leaking, kitchen door wasn't working, etc); (xv) make and purchase Christmas baskets for the maintenance and admin staff of her apartment building; (xvi) obtain quotes for the purchase of her elliptical machine; and (xvii) purchase paintings, every two or three months.

164. The Tribunal observes that the Executive Assistant told EBC that she spent approximately 40% of her working time performing personal errands for the Applicant and that this made her feel like she was the Applicant's "personal assistant instead of a World Bank Executive Assistant." The Executive Assistant further stated that she performed the aforementioned tasks because she was "afraid" of the Applicant and noted, "I didn't want to lose my job."

165. The record shows that, when the Executive Assistant was out of the office, her backups were the Program Assistant/RWA and the Team Assistant, and that the Applicant also asked them to perform personal errands for her. The Program Assistant/RWA told EBC that, when she filled in for the Executive Assistant, she was asked by the Applicant to perform personal tasks such as (i) making hair salon and manicure appointments, (ii) managing her checkbooks, (iii) making payments for her personal bills, and (iv) making hotel reservations for her vacations. She stated that, although she did not mind making hotel reservations for the Applicant, handling the Applicant's checkbooks made her "nervous." The Team Assistant told EBC that, on one occasion

when she was covering for the Executive Assistant as the Applicant's executive assistant, she was asked by the Applicant to make her a manicure appointment at a beauty salon and that the request made her feel "helpful."

166. The Tribunal notes that the record shows that the Executive Assistant and the Program Assistant/RWA also provided EBC with documentary evidence, including copies of emails and screenshots of WhatsApp messages, showing requests by the Applicant for them to perform various personal tasks including making personal appointments, paying her personal bills, managing her checkbooks, and scheduling apartment repairs. The Tribunal further notes that the Executive Assistant also provided EBC with copies of the "End of Day Email" that she stated the Applicant asked her to send to her every day describing the status of all the tasks, including work-related and personal, that she performed on a given day.

167. The Tribunal observes that the Driver also provided testimonial evidence to EBC that during the Applicant's tenure she asked him to perform the following personal tasks for her:

(i) taking her clothes to the laundry and dry cleaners (every 15 days – sometimes weekly); (ii) going to the bank to cash checks ([local] currency) for her to bring her cash (weekly occurrence); (iii) taking checks to the landlord to pay her rent[;] (iv) taking checks to her apartment building to pay her electricity bill; (v) doing grocery shopping (purchasing "milk, fruit, tomatoes, lettuce") and taking the groceries to her apartment; (vi) putting gas in her personal car; [and] (vii) purchasing coffee, flowers [and] other items/products she requested.

168. The record shows that the Driver told EBC that the Applicant gave him petty cash to use for her personal expenses. He stated that, when he finished the petty cash, he had to provide the Applicant with a list or summary of how the money was spent. The record further shows that the Driver told EBC that he took these requests for personal tasks as "an obligation" because he wanted to "protect" his job and that he feared reprisals if he did not comply with the Applicant's requests. The Driver stated that some of these tasks decreased around June 2018 when the Applicant hired a personal driver.

169. The record demonstrates that various staff members provided testimonial evidence to EBC that the Applicant spoke to them in a raised voice or angry tone.

170. The Tribunal notes that the Program Assistant/RWA told EBC that the Applicant raised her voice at her on two occasions on or around April 2019. On the first occasion, the Program Assistant/RWA stated that the Applicant “scolded” her in front of the Senior Operations Officer in connection with a guest list she was preparing for a big event the office was organizing. She stated that she felt “upset” and “embarrassed.” The Program Assistant/RWA stated that, on another occasion, the Applicant raised her voice at her and the Team Assistant in the reception area because the Applicant thought that they had not sent invitations to an event to certain individuals.

171. The Tribunal observes that the Team Assistant told EBC that the Applicant “yelled” at her on one occasion and apologized to her the next day. She further told EBC that she never witnessed the Applicant yelling or behaving in a disrespectful manner towards anyone and noted that her interactions with the Applicant were limited.

172. The record shows that the Executive Assistant told EBC that the Applicant screamed at her in the hallway on one occasion, in May 2019, because she and other staff stayed in an office celebratory lunch for longer than expected. The Executive Assistant stated that the incident made her upset and she began to cry. She stated that the Applicant also cried and apologized to her. The Senior Operations Officer and the IFC Program Assistant testified that they personally witnessed the Applicant yelling at the Executive Assistant on this occasion. The Program Assistant/RWA stated that she went to see the Executive Assistant after the incident and found her crying.

173. The Tribunal observes that the Senior Operations Officer also informed EBC that the Applicant yelled at him and the Executive Assistant on one occasion, “You’re not doing your job!” because the guest list for an event was not ready. The Resource Management Analyst testified that he overheard the incident and remembered that it was sometime in 2019 but could not recall the details.

174. The record demonstrates that seven staff members, namely the Executive Assistant, Resource Management Analyst, Program Assistant, IT Analyst, Senior Operations Officer, Team Assistant, and Program Assistant/RWA testified to EBC that the Applicant called a staff meeting

in or around May 2018 to discuss the negative feedback she had received in her 360 assessment. The seven staff members provided the following testimonial evidence to EBC:

- The Executive Assistant observed that the Applicant was “mad” based on her facial expression and stated that she used a “tough voice.” The Executive Assistant stated that the Applicant said that she could not believe that she had a bad performance evaluation. Further, the Executive Assistant testified that the Applicant said, “I have an open-door policy and you never told me and then do this review? So, tell me now.”
- The Resource Management Analyst testified that during the meeting the Applicant told staff she had a bad “360 [assessment] report and she wanted to know why.” The Resource Management Analyst stated that the meeting was “uncomfortable” because no one felt free to speak. He further stated, “I think she was not happy at all with what she got or what she received...you can notice in her face and in her vocabulary.”
- The Program Assistant stated that during the meeting the Applicant was “confrontational” and made her feel “uncomfortable.” She observed that the Applicant was “visibly angry” and described the Applicant’s tone during the meeting as “you better tell me or else!”
- The IT Analyst testified that the Applicant was “very mad” and “completely serious” during the meeting. The IT Analyst stated that she felt like the Applicant was confronting them as to why she received negative feedback. The IT Analyst further stated that as a result of the meeting she felt “bad and uncomfortable” and “betrayed by the system.”
- The Senior Operations Officer informed EBC that during the meeting the Applicant was “mad” as evidenced by her facial expression and the manner in which she spoke. He stated that her body language made him feel “uncomfortable.” The Senior Operations Officer further stated, “That was not the way of approaching the problem.”
- The Team Assistant recalled that the Applicant was “upset” during the meeting, stating that “[h]er face gave the impression that she was mad.” The Team Assistant also stated that she felt “uncomfortable” because the Applicant was “confronting” her and her colleagues about the negative feedback she had received.

- The Program Assistant/RWA observed that the Applicant showed “great disappointment” about the feedback she received and communicated this to the staff. She noted that it was an “awkward” moment because “everybody [staff] kept silence.” She stated that she did not feel confronted or intimidated but that she felt “sorry” for the “bad evaluation” the Applicant had received.

175. The record shows that the Executive Assistant provided documentary evidence of a screenshot of a WhatsApp message the Applicant purportedly sent to the Program Assistant/RWA stating:

Dear [the Program Assistant/RWA], hi. Can you please make sure you kindly complete my IMPACT assessment? I need a positive one since I assume some others in the office won't give me a good one 😊 Thank you!

176. The record further shows that the Program Assistant/RWA provided testimonial evidence to EBC confirming that she received the aforementioned WhatsApp message from the Applicant in June 2019. She stated that she thought it was “inappropriate” for the Applicant to send the request, adding, “What a nerve. You know, to ask this. I was surprised...I was surprised because managers before, nobody did that.”

177. In addition to the above testimonial and documentary evidence in the record, the Tribunal notes that the Applicant has made the following admissions:

1. The Applicant admitted to EBC that she asked the Executive Assistant to perform the following personal tasks: (i) make payments to her housekeeper and keep track of her housekeeper's vacation days, (ii) use the Applicant's personal checkbooks with signed blank checks to pay her personal bills, (iii) provide the Applicant with a weekly email with a report on the status of her personal bank accounts (in both local currency and U.S. dollars), (iv) arrange parties and/or dinners for her (the Applicant told EBC that “99%” of the parties and dinners hosted in her apartment were work-related), and (v) send the Applicant an email at the end of each day summarizing the status of all of the personal and official tasks she performed that day. However, the Applicant disputes the

- amount of work time the Executive Assistant spent on her personal tasks. At various points in the record, the Applicant estimates the time the Executive Assistant spent at approximately 5%, 1.66%, and “less than two and half (2.5%)” using different charts.
2. The Applicant admitted to EBC that she asked (i) the Program Assistant/RWA to perform personal tasks for her such as scheduling hair appointments, manicure and pedicure appointments, and personal travel; (ii) the Driver to run personal errands for her during official Bank hours; and (iii) the Team Assistant to perform tasks for her of a personal nature when the Executive Assistant and/or the Program Assistant/RWA were not in the office.
 3. At various stages of the investigation, including during her EBC interviews and in her written responses to EBC, the Applicant apologized and expressed remorse for asking staff to perform personal errands for her. For example, in the Applicant’s response to EBC’s draft investigation report, the Applicant stated that she felt “ashamed and embarrassed by the mistakes [she] made in allowing staff to assist [her] with personal tasks.”
 4. In the Applicant’s written response to EBC’s draft investigation report, she admitted that she did “raise [her] voice in frustration a couple of times in the spring of 2019,” but that did not constitute “three (3) years of verbal, much less physical, abuse as claimed in the report.” During her EBC interviews, the Applicant denied screaming at the Executive Assistant after the office lunch in 2019 and denied raising her voice at the Program Assistant/RWA when discussing the invitation list for a nutrition event.
 5. The Applicant admitted to EBC that she organized the May 2018 meeting to discuss her 360 assessment. She told EBC that she told staff, “There were some comments that I was surprised about. And I said, this is news to me because I have, I mean, I’ve always said I had an open door, and if there are issues, I would like to hear them.” The Applicant stated that she read the negative comments in the meeting because she wanted to understand “where this was coming from.” The Applicant denied that she was angry or confrontational, and also denied that her tone was intimidating or threatening. Further, the Applicant stated that her executive coach suggested that she ask staff about the negative feedback that she received so she could know what was causing that feedback and what she needed to do to improve.

6. The Applicant, during her interview with EBC investigators, confirmed that she sent the aforementioned WhatsApp message to the Program Assistant/RWA in or around June 2019 asking her to provide favorable feedback in the Applicant's IMPACT assessment report. The Applicant told EBC that she wished she had explained to the Program Assistant/RWA that she was only asking her to be "sincere" and provide the positive feedback in the IMPACT assessment report that she had given the Applicant in prior conversations.

178. Based on the foregoing admissions, in addition to the testimonial and documentary evidence in the record highlighted above, the Tribunal finds that the following facts are established based on the substantial evidence standard:

1. Throughout the course of her three-year tenure as Country Manager for X Country, the Applicant asked staff members, including the Executive Assistant, Program Assistant/RWA, Team Assistant, and Driver, to perform tasks of a personal nature for her during official Bank hours and also during their personal time, and that these staff members performed the aforementioned requested tasks.
2. During her tenure as Country Manager for X Country, the Applicant raised her voice and spoke in an angry manner towards staff on several occasions.
3. The Applicant convened a May 2018 staff meeting and confronted the staff as to why they provided negative feedback in her managerial 360 assessment.
4. In June 2019, the Applicant asked a staff member to provide her with positive feedback in her 2019 IMPACT assessment report.
5. At all times during the Applicant's tenure as Country Manager for X Country, she was in a position of power and authority over her staff. She was the sole head of the X Country Office as there was no other Manager or Country Director in the office.

179. Having established the above facts, the Tribunal will now assess whether these facts amount to misconduct with respect to Staff Rule 3.00, paragraphs 6.01(a), (b), (c), and (e).

Conduct resulting in a violation of Staff Rule 3.00, paragraph 6.01(a) – Failure to observe obligations relating to the unauthorized use of Bank Group staff and abuse of authority

180. The Tribunal will now review the record to assess whether the Applicant engaged in conduct constituting a failure to observe obligations relating to the unauthorized use of Bank Group staff and abuse of authority.

181. In the present case, the established facts and the Applicant's admissions demonstrate that the Applicant routinely asked staff to perform tasks of a personal nature for her throughout her three-year tenure as Country Manager for X Country, and that those staff members performed the aforementioned requested tasks. The requests were directed to at least four staff members – the Executive Assistant, the Program Assistant/RWA, the Team Assistant, and the Driver – and for all of them except the Team Assistant, the requests occurred either more than once (the Program Assistant/RWA) or routinely (the Executive Assistant and the Driver).

182. The Tribunal notes that staff members were deployed to assist the Applicant in official work, not in personal work. The Applicant was in a position of authority and was entrusted to use the Bank resources for proper official work. Considering the record as a whole, the Tribunal finds that there is substantial evidence to support a finding that the Applicant's conduct constituted a failure to observe obligations relating to the unauthorized use of Bank Group staff and abuse of authority in violation of Staff Rule 3.00, paragraph 6.01(a).

Conduct resulting in a violation of Principle 3.1(c) of the Principles of Staff Employment and Staff Rule 3.00, paragraph 6.01(b) and paragraph 6.01(c)

183. The Tribunal will now review the record to ascertain whether the Applicant engaged in conduct which displayed a reckless failure to identify, or a failure to observe, generally applicable norms of prudent professional conduct. In addition, the Tribunal will assess any acts or omissions by the Applicant in conflict with the general obligations of staff members to avoid situations and activities that might reflect adversely on the Organization (Principle 3.1(c) of the Principles of Staff Employment).

184. In the present case, the record and established facts (see paragraph 178 above) demonstrate that the Applicant's actions as Country Manager, which included asking staff to perform tasks of a personal nature, raising her voice and speaking angrily to staff, and confronting staff about her 360 assessment, made staff feel afraid, uncomfortable, and intimidated. Even the Applicant admits that she, as Country Manager, asked staff to perform tasks of a personal nature, sometimes raised her voice and spoke angrily to staff, and questioned staff about her 360 assessment. This behavior is incompatible with the professional and ethical conduct expected of staff in general, and especially that of a Country Manager who is in a position of power and authority over local country staff. As Country Manager, the Applicant acknowledged having read and understood the relevant Staff Rules, including the Principles of Staff Employment and Code of Conduct, which require that all staff, including the Applicant, abide by the highest standards of ethics and integrity. Here, the Applicant failed to live up to the institution's standards. This behavior is inconsistent with the expectations of prudent professional conduct by staff and should not be condoned.

185. Based on the foregoing, the Tribunal finds that there is substantial evidence in the record to support a finding that the Applicant's conduct constituted a failure to identify and observe generally applicable norms of prudent professional conduct in violation of Principle 3.1(c) of the Principles of Staff Employment and Staff Rule 3.00, paragraphs 6.01(b) and (c).

Conduct resulting in a violation of Staff Rule 3.00, paragraph 6.01(e) – Harassment and contributing to a hostile work environment

186. The Tribunal will now review the record to assess whether the Applicant engaged in conduct constituting harassment and contribution to a hostile work environment.

187. The Applicant contends that the Bank does not provide any clear legal definition of what conduct constitutes harassment and contribution to a hostile work environment. The Tribunal notes, however, that the WBG Guidance on Anti-Harassment refers to harassment as “unwelcome verbal or physical behavior that unreasonably interferes with work or creates an intimidating, hostile, or offensive work environment.” The Guidance notes that conduct that is reasonably

perceived to be offensive or intimidating, whether or not it was intended to be so, should be stopped. The Guidance further notes that “[w]hether any act or series of acts amounts to Harassment depends on the circumstances of each case.” Paragraph 6 states, “Examples of behaviors that may constitute Harassment” include

- a. Comments (oral, written), gestures, or physical actions;
 - b. A single incident or a repeated, continuous pattern of behavior;
 - c. Demeaning, belittling or causing personal humiliation or embarrassment;
 - d. Threatening, intimidating or verbal abuse;
 - e. Intimidating behavior that involves a real or perceived power imbalance (i.e., bullying);
- [...] [and]
- i. Severe or repeated insults related to a Staff’s personal or professional competence.

188. In the present case, the Applicant admits that, in her role as Country Manager, she sometimes raised her voice and spoke in an angry manner to subordinate staff, called staff into a meeting where she questioned them regarding negative comments in her 360 assessment, and asked a staff member to provide her with positive feedback. The record further shows that the Applicant made certain comments towards staff members that made them feel uncomfortable and intimidated. Further, staff members testified that they did not feel that they could decline the Applicant’s persistent and routine requests for them to handle her personal errands because they were afraid and did not want to lose their jobs. The Tribunal also observes that EBC found that the Applicant “behaved in an intimidating manner at [the 360] meeting” and “raised her voice at her staff and spoke to them in an angry manner.” The Tribunal notes that the definition of harassment can include intimidating behavior even in the absence of gestures or physical actions, as was the case here. The Tribunal finds that the Applicant’s admitted behaviors, in view of the Applicant’s position of power and authority over the staff, could reasonably have been perceived to be offensive or intimidating, whether or not they were intended to be so.

189. Based on the foregoing, the Tribunal finds that there is substantial evidence in the record to support a finding that the Applicant's conduct constituted harassment and contributed to a hostile work environment in violation of Staff Rule 3.00, paragraph 6.01(e).

190. In sum, based on the Applicant's admissions, in addition to the testimonial and documentary evidence in the record, the Tribunal is satisfied that the Bank has met its burden of proof and that there is substantial evidence, "higher than a mere balance of probabilities," to support a finding of misconduct in violation of Staff Rule 3.00, paragraphs 6.01(a), (b), (c), and (e).

WHETHER THE SANCTIONS IMPOSED ARE SIGNIFICANTLY DISPROPORTIONATE TO THE OFFENSE

191. The Tribunal notes that the Applicant does not challenge the sanctions imposed on the basis that they are not provided for in the law of the Bank. Accordingly, the Tribunal will now assess whether the disciplinary measures imposed were significantly disproportionate to the misconduct.

192. In *Gregorio*, Decision No. 14 [1983], para. 47, the Tribunal held:

[I]n order for a sanction to be proportionate, there must be some reasonable relationship between the staff member's delinquency and the severity of the discipline imposed by the Bank. The Tribunal has the authority to determine whether a sanction imposed by the Bank upon a staff member is significantly disproportionate to the staff member's offense, for if the Bank were so to act, its action would properly be deemed arbitrary or discriminatory.

193. In *Houdart*, Decision No. 543 [2016], para. 95, the Tribunal reiterated the principle of proportionality and observed:

[I]n addressing the issue of proportionality, its job is not to decide what sanction the Tribunal would impose or whether the [HRDVP] chose the best penalty, but, rather, whether the [HRDVP] reasonably exercised his discretion in this matter. [...] [T]here is no mechanical formula on how to weigh these considerations. The selection of the sanction in a given case requires a judgment of balancing the relevant factors by the [HRDVP]. That discretionary judgment is for the [HRDVP] to make, and as long as [the HRDVP's] decision was not unreasonable, the Tribunal will not interfere.

194. In the present case, the Tribunal observes that the HRDVP imposed the following disciplinary measures upon the Applicant: (i) demotion from managerial GH-level position to technical GH-level position, (ii) reduction in pay equivalent to salary increase for FY 2018, and (iii) written censure, in the form of the HRDVP disciplinary letter, to remain in the Applicant's HR record for three years.

195. In the HRDVP's decision letter, dated 1 February 2021, she stated that, to decide on the proportionality of the disciplinary measures to be imposed, and in accordance with Staff Rule 3.00, paragraph 10.09, she considered such factors as

the seriousness of the matter, the interests of the World Bank Group, any extenuating circumstances, the situation of the staff member, and the frequency of the conduct for which disciplinary measures may be imposed.

196. In the decision letter, the HRDVP also expressly identified and considered the following mitigating factors in determining the disciplinary measures to be imposed:

By way of mitigating factors, I note that you showed remorse and expressed your apologies for having engaged in unauthorized use of Bank Group staff. Further, there is no evidence that you have engaged in similar inappropriate behavior in your current assignment [...] nor in any prior assignments. Rather, you have most recently received glowing reviews about your managerial and interpersonal skills.

197. The Tribunal reiterates that "there is no mechanical formula on how to weigh these considerations. [...] That discretionary judgment is for the [HRDVP] to make, and as long as [the HRDVP's] decision was not unreasonable, the Tribunal will not interfere." *Houdart* [2016], para. 95.

198. The Applicant contends that the disciplinary sanctions imposed on her are "undeniably harsh." The Applicant supports her contention by stating three main reasons: (i) the HRDVP overstated the severity of the unauthorized use of staff, (ii) the salary reduction was unfairly duplicative as the Applicant had already received an SRI rating of 2 for her last year in the X Country Office, and (iii) the Applicant should not be punished more harshly because the

misconduct fits into two different labels, namely (a) abuse of authority and (b) creating a hostile work environment. Additionally, the Applicant contends that the HRDVP did not meaningfully take into account as a mitigating factor the “glowing reviews about [her] managerial and interpersonal skills” in her Manager of Operations role following her tenure in the X Country Office.

199. The Bank contends that the Applicant’s admissions that she abused her authority by routinely requesting staff to perform tasks for her during her tenure as Country Manager for X Country, by itself, warrants each of the disciplinary sanctions imposed. The Bank contends that the Applicant’s “quibbling” over the amount of time staff spent on her personal tasks demonstrates her failure to grasp the severity of her conduct and the impact her behavior had on others. The Bank contends that the HRDVP was especially troubled by the power differential between the Applicant and the staff in the X Country Office as well as the fact that eight of nine of the Country Office staff reported some form of misconduct by the Applicant that was hostile or intimidating. The Bank asserts that the change in classification in the Applicant’s position from a GH managerial position to a GH technical position is a completely appropriate and proportionate sanction given that the Applicant abused her managerial authority.

200. Further, the Bank contends that the Applicant’s assertion that her reduction in salary was unfairly duplicative is “comparing apples to oranges.” The Bank asserts that the Country Director, responsible for assessing the Applicant’s performance, assigned the Applicant an SRI rating of 2 for FY 2019. The Bank states that this did not result in a salary reduction; rather, as a result of the SRI rating of 2, the Applicant was not entitled to a salary increase. Conversely, the Bank contends that, following a determination of misconduct, the HRDVP imposed a salary reduction as a sanction for the Applicant’s misconduct. Finally, the Bank avers that the disciplinary sanctions imposed on the Applicant are balanced with her “egregious, systematic, [and] widespread misconduct.” The Bank states that the Applicant admitted to abusing her authority over the course of her three-year tenure as Country Manager for X Country and that misconduct alone would warrant the sanctions imposed.

201. The record demonstrates that eight out of nine staff members in the X Country Office alleged some type of unwelcome behavior towards them. Three of those eight staff members also alleged that the Applicant asked them to perform personal errands for her during official Bank hours and also during their personal time.

202. The Tribunal observes the Applicant's contention that the HRDVP's sanctions are unduly harsh in that the HRDVP overstated the severity of the unauthorized use of staff. However, the Tribunal takes note that the record shows that the Applicant persistently and routinely made personal requests of staff. The Tribunal does not accept the Applicant's contention that the HRDVP overstated the severity of the unauthorized use of Bank staff given the record and the costs to the staff who were exposed to the Applicant's behavior during her three-year tenure, not to mention the hidden costs to the institution in lost productivity, absences due to illness, and low morale. The Country Director stated that in her time at the Bank she had never seen an office so negatively impacted from an "emotional level," based on the later staff retreat she attended. In light of this evidence, the Tribunal is not convinced that the HRDVP overstated the severity of the unauthorized use of staff.

203. The Tribunal notes that Staff Rule 5.03, paragraph 1.02, states that performance "includes professional and work-place behavior." As such, behavior can be, and is, used in determining a staff member's overall performance evaluation (OPE) and SRI rating. The Tribunal further notes that Staff Rule 6.01, paragraph 3.12, states, "A staff member who receives a performance rating of 2 or 1 will not receive an annual pay increase." In the present case, the Tribunal observes that the Applicant received an SRI rating of 2 in FY 2019. The Tribunal further observes that the Applicant's FY 2019 SRI rating aligns with critical comments in her FY 2019 OPE regarding, among other things, (i) the deep concerns raised by staff in the wake of the Applicant's departure about her "management behaviors," (ii) the low scores in the "Direct Report" category of the IMPACT assessment report ("at the bottom end of all Bank managers"), and (iii) "a negative attitude" and behaviors observed by the Country Director. The HRDVP's sanction of the reduction in pay, provided for in Staff Rule 3.00, paragraph 10.06(i), was borne out of the HRDVP's finding of misconduct – wholly separate from the FY 2019 performance evaluation. The Tribunal is satisfied that the salary reduction sanction is not unfairly duplicative.

204. The Tribunal notes the Applicant's contention that she should not be punished more harshly because the misconduct fits into two different labels: (i) abuse of authority and (ii) creating a hostile work environment. The Tribunal recalls EBC's statement in its Final Report regarding the interplay between the allegations against the Applicant:

EBC found that the allegations (hostile work environment, unauthorized use of Bank Group staff and abuse of authority) are closely related. Namely, given [the Applicant's] position of power and her role in the office, the alleged unauthorized use of Bank Group staff also amounted to her abusing her authority and this had an impact in assessing the allegations of hostile work environment. The evidence shows that [the Applicant's] use of her position of authority in the office to routinely ask staff to perform tasks of a personal nature made staff feel uncomfortable, intimidated and mistreated. [The Executive Assistant] and [the Driver] stated that they performed those personal errands because they were afraid that if they did not, they would lose their jobs. Thus, the unauthorized use of Bank staff and abuse of authority contributed to creating a hostile work environment.

205. The Tribunal considers that, due to the interrelated nature of the allegations and the types of misconduct at issue here, the findings of misconduct would naturally overlap. However, beyond the assertion by the Applicant that she was punished more harshly simply because her behavior fit into multiple misconduct categories, the Applicant has not provided anything concrete that this is so in this case. The Tribunal is therefore left to presume that this occurred in this case. It is not for the Tribunal to make any such presumption.

206. Finally, the Tribunal considers the Applicant's contention that the HRDVP did not meaningfully take into account as a mitigating factor the "glowing reviews about [her] managerial and interpersonal skills" in her Manager of Operations role following her tenure in the X Country Office. The Tribunal disagrees and notes that the record shows these factors were expressly taken into account as mitigating factors.

207. In the present matter, and having regard to the nature and persistence of the misconduct in question and the abuse of managerial authority, the Tribunal finds no reason in the record to hold that the HRDVP's decision on sanctions was unreasonable, nor does it find any other grounds upon which the imposed sanctions should be set aside.

208. The Tribunal is, therefore, satisfied, on the basis of the circumstances of this case, that the sanctions imposed on the Applicant are not disproportionate, significantly or otherwise, to the offense.

WHETHER THE REQUIREMENTS OF DUE PROCESS WERE OBSERVED

209. The next issue for the Tribunal to address in its examination of this case is whether the Bank observed the requirements of due process.

210. In *AJ*, Decision No. 389 [2009], para. 120, the Tribunal stated that claims related to an alleged lack of due process “must be examined bearing in mind that the Bank’s disciplinary proceedings are administrative rather than criminal in nature.” In *Kwakwa* [2003], para. 29, the Tribunal observed that the Bank is not required to accord a staff member accused of misconduct “the full panoply of due process requirements that are applicable in the administration of criminal law.”

211. In *Rendall-Speranza* [1998], para. 57, the Tribunal explained the nature of disciplinary proceedings in the Bank as follows:

In order to assess whether the investigation was carried out fairly, it is necessary to appreciate the nature of the investigation and its role within the context of disciplinary proceedings. After a complaint of misconduct is filed, an investigation is to be undertaken in order to develop a factual record on which the Bank might choose to implement disciplinary measures. The investigation is of an administrative, and not an adjudicatory, nature. It is part of the grievance system internal to the Bank. The purpose is to gather information, and to establish and find facts, so that the Bank can decide whether to impose disciplinary measures or to take any other action pursuant to the Staff Rules. The concerns for due process in such a context relate to the development of a fair and full record of facts, and to the conduct of the investigation in a fair and impartial manner. They do not necessarily require conformity to all the technicalities of judicial proceedings.

212. The Applicant claims that the investigation was flawed and that the Bank violated her due process rights in many respects. First, the Applicant claims that EBC provided the HRDVP with a

severely distorted set of findings and conclusions and, in so doing, deprived the Applicant of the fundamental right as a staff member to a disciplinary decision based on an objective and accurate factual record.

213. Second, the Applicant claims that EBC failed to make available to the Applicant the transcripts of three witnesses' testimonies that were conducted as part of EBC's inquiries into the anonymous complaint against the Applicant submitted to EBC in July 2018.

214. Third, the Applicant asserts that, as to the hostile work environment findings, the HRDVP as well as EBC failed to articulate a standard for when "merely less-than-pleasant conduct crosses the line into prohibited hostility."

Whether EBC's Final Report was misleading and presented a biased and distorted factual record

215. In *Kwakwa* [2003], para. 29, the Tribunal stated:

[T]he due process requirements for framing investigations of misconduct in the context of the World Bank Group's relations with its staff members are specific and may be summarized as follows: affected staff members must be [apprised] of the charges being investigated with reasonable clarity; they must be given a reasonably full account of the allegations and evidence brought against them; and they must be given a reasonable opportunity to respond and explain. (*See King*, Decision No. 131 [1993], paras. 35–37.)

216. In *FW and FX* [2021], para. 201, the Tribunal reiterated with approval the nature of disciplinary proceedings in the Bank as articulated in *Rendall-Speranza* [1998], para. 57, quoted in paragraph 211 above.

217. With regard to the Applicant's assertion that EBC's Final Report was misleading and presented a biased factual record, the Tribunal notes that EBC (i) interviewed eighteen witnesses, some of whom were proposed by the Applicant; (ii) reviewed documents the witnesses provided in support of their allegations; (iii) reviewed and considered the Applicant's comments on her

interview transcripts and the draft investigation report; and (iv) reviewed and considered forty-four documents the Applicant submitted in support of her position.

218. Based on the foregoing, and considering the entire record, the Tribunal is satisfied that EBC's investigation and Final Report are in accord with the Tribunal's jurisprudence regarding due process and the sufficiency of EBC's investigations.

Whether EBC's decision to not make available three interview transcripts from a previously closed EBC case violated the Applicant's due process rights

219. The Tribunal observes that this contention refers to a previous anonymous complaint against the Applicant in 2018. The record shows that the anonymous complainant did not respond to EBC's repeated requests for additional information. After conducting several interviews, EBC determined that there was insufficient evidence to initiate an investigation and subsequently closed the matter at the initial review stage.

220. The record shows that EBC and the HRDVP did not rely on any evidence previously gathered by EBC as a result of the anonymous complaint. In the Final Report, EBC mentioned the previous inquiry only as background information. In these premises, the Tribunal is satisfied that EBC's decision not to make the three transcripts available to the Applicant does not in any way violate the Applicant's due process rights.

Whether EBC and the HRDVP failed to articulate a standard for harassment, resulting in a violation of the Applicant's due process rights

221. The Applicant asserts that, as to the hostile work environment findings, neither the HRDVP nor EBC "even attempted to articulate a standard for when merely less-than-pleasant conduct crosses the line into prohibited hostility" or "referenced any rules or any other guidance that may have provided advance notice as to the contours of such a standard." According to the Applicant, no such clarity existed during her X Country Office tenure. The Applicant states that, for this

reason, the hostile work environment sanctions against her should be invalidated on due process grounds.

222. The Bank asserts that it has provided staff, including the Applicant, with several documents that explain harassment and unprofessional behavior, most notably the WBG Guidance on Anti-Harassment. The Bank asserts that the Guidance explicitly provides concrete examples of what types of behaviors constitute harassment.

223. The Tribunal recalls that the WBG Guidance on Anti-Harassment provides concrete examples of the types of behaviors that constitute harassment or unprofessional behavior. For example, paragraph 6 states, “Examples of behaviors that may constitute Harassment” include

- a. Comments (oral, written), gestures, or physical actions;
 - b. A single incident or a repeated, continuous pattern of behavior;
 - c. Demeaning, belittling or causing personal humiliation or embarrassment;
 - d. Threatening, intimidating or verbal abuse;
 - e. Intimidating behavior that involves a real or perceived power imbalance (i.e., bullying);
- [...] [and]
- i. Severe or repeated insults related to a Staff’s personal or professional competence.

224. The Tribunal observes that examples of the types of behaviors that can constitute harassment are provided in the Guidance on Anti-Harassment document, together with guidance that such behaviors must reasonably be perceived to be offensive or intimidating, whether or not they were intended to be so, in order to constitute harassment. The Tribunal further observes that the record contains testimonial and documentary evidence, including admissions from the Applicant, demonstrating that the Applicant engaged in behaviors during her tenure as Country Manager for X Country that fit within the Guidance’s examples of harassment.

225. Based on the foregoing, and considering the entire record, the Tribunal finds that the Applicant's due process rights were not violated in this instance.

CONCLUDING REMARKS

226. The WBG has high standards for the professional and ethical behavior of its staff, particularly those holding managerial positions. In this case, the Applicant was entrusted with the responsibility of heading a Country Office of the Bank and should have modeled higher standards of prudent professional conduct and behavior. Based on the record, the HRDVP was justified in finding misconduct and imposing appropriate sanctions, which the Tribunal hereby upholds.

227. The Tribunal wishes to make note of the Applicant's impressive career trajectory with the Bank. She started as a Grade Level GB staff and over time worked her way up to become a Country Manager. During the EBC investigation, the Applicant was forthright and cooperative, and admitted that certain aspects of her behavior fell below the acceptable standards. Furthermore, there have been no issues in her following assignment – in fact, she received stellar reviews and feedback.

DECISION

The Application is dismissed.

/S/ Mahnoush H. Arsanjani

Mahnoush H. Arsanjani

President

/S/ Zakir Hafez

Zakir Hafez

Executive Secretary

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

* 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.