



**World Bank Administrative Tribunal**

**2023**

**Decision No. 695**

**GZ,  
Applicant**

**v.**

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

**(Merits)**

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

**GZ,  
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 6 December 2022. The Applicant was represented by Hatem Kotrane, Attorney of Law at the Tunis Bar. The Bank was represented by David Sullivan, Deputy General Counsel (Institutional Affairs), Legal Vice Presidency. The Applicant's request for anonymity was granted on 4 May 2023.
3. The Applicant alleges unfair treatment and violations of due process by the Ethics and Business Conduct Department (EBC).

**FACTUAL BACKGROUND**

*The Applicant's employment history*

4. The Applicant joined the Bank in 2007 as a Short-Term Temporary staff member in the Tunisia Country Office (CO). She became a Team Assistant in 2010 and a Program Assistant, Grade Level GC, in 2012, a position she holds to date.

*Tuition assistance*

5. During a meeting held on 25 September 2019, the Tunisia Country Manager (Country Manager) verbally informed his staff that there was availability in the learning budget to provide staff with an education grant covering fifty percent of one year's tuition for degree programs.
6. On 1 October 2019, the Applicant submitted an application form to the Country Manager seeking an education grant for a two-year, long-distance master's degree program. Attached to the form was supporting documentation relating to the cost of the program.
7. On 4 October 2019, the Country Manager emailed the Applicant and other staff members who applied for an education grant to inform them that their applications had been approved. The Country Manager copied the Resource Management (RM) Analyst based in the Tunisia CO on the email. Attached to the email was a table which identified the names of the staff members approved for tuition assistance and the specific amount of tuition assistance they were approved to receive. In this table, the tuition support to be provided to the Applicant was stated as follows: "First year of MA [master's degree] in sustainable development: US\$ 525 (50 percent of tuition)."
8. Typically, tuition assistance is provided by the World Bank Group (WBG) as a reimbursement paid to the staff member after the staff member pays the tuition out of pocket. However, because of the financial burden that this arrangement would have on the staff members, the Country Manager requested that RM arrange for the WBG to pay the tuition assistance directly to the educational institution.
9. On 24 October 2019, the Applicant emailed a copy of the payment agreement she received from the educational institution where she intended to pursue her master's degree to the RM Analyst and another RM staff member requesting WBG to facilitate her enrollment in the master's program. Also attached to this email was a copy of the Country Manager's previous email which stated the approval of her tuition assistance as being fifty percent of her first year's tuition. On 30 October 2019, the Applicant followed up on the request by email, copying the Country Manager.

10. On 5 November 2019, the Applicant requested the RM Analyst to prepare a purchase order in accordance with the payment agreement, which indicated that the academic program was for two years at a cost of 3,000 Tunisian dinars (TND) per year.

11. On 7 November 2019, the Applicant submitted via email, as her tuition assistance payment request, an invoice for the sum of 6,000 TND, reflecting the tuition for her master's program for two years, to the transaction processing unit in Chennai for processing. The Applicant copied the RM Analyst on this email. The Applicant did not indicate on the payment request that the tuition assistance approved was for fifty percent of the tuition for one year, nor did she attach the Country Manager's email indicating that the WBG would fund only fifty percent of her tuition for one year.

12. The requested payment was reviewed and cleared by the RM Analyst, another RM staff member, and the Country Manager.

13. On 27 November 2019, the WBG paid the educational institution 6,000 TND for one hundred percent of two years' tuition.

14. In October 2020, another staff member sought the assistance of the RM Analyst to request tuition assistance for the second year of her master's degree based on the approval of the previous year's tuition assistance. Prompted by this request, the RM Analyst reviewed the approval process from the previous year, including related documents and emails. During this review, the RM Analyst realized that the Applicant may have received more tuition assistance than the amount which was approved.

15. On 26 October 2020, the RM Analyst emailed the Applicant asking, "[D]oesn't [the Country Manager's] approval specify that the [WBG] would cover fifty percent of the tuition fees and not the 100%?" to which the Applicant responded, "On [how] this was processed no idea. I hope that with closing [Fiscal Year 2020 (FY20)], we can also close this file."

16. In February 2021, the RM Analyst and another RM staff member concluded their review of the FY20 tuition assistance payment requests and notified the Country Manager that three staff

members, including the Applicant, received tuition assistance benefits in error. On 9 February 2021, the Applicant was formally notified of the overpayment and presented with repayment options. In response, the Applicant wrote:

I've never claimed 100% payment of tuition fees or requested the full amount of the tuition fees for FY20 and FY21 to be paid, instead of fifty percent for FY20 only. I've never been involved in the invoice preparation or payment process. Now, I notice that the person who prepared the invoice from the university, invoiced the Bank for two years instead of one, as mentioned on the agreement, and that's not my mistake.

The person from the bank who paid the invoice, should have noticed that the bank is invoiced for two years instead of one and invoiced for the full amount instead of fifty percent. I was ready to pay 1500 TND out of my pocket last FY as agreed and planned and, on several months, now you're asking me to pay 4500 TND for 5 months for almost 1000 TND per month! or option 3 [which] means to cut almost all my salary [...].

Why this request is coming now? Why no one explained to me [how] the 1500 TND amount will be paid last FY and I could have at least followed my salary cut on time?

Because of Covid19, my HBW [home-based work], my daily care of my 3 children, I couldn't take my Master courses for the 2nd semester and I have to repeat the first year of this Master.

If no mistake was done, I could have paid 1500 TND last FY and this file closed, without any 2nd year to be paid out of my pocket under the difficulties we are having with Covid19 and the economic situation the country is having and the cost of life becoming higher.

I would suggest to get an authorization to have this file closed for FY20 given the Covid19 situation [which] is putting a lot of difficulties and stress on our shoulders.

Thank you for your understanding.

17. On 11 February 2021, the Country Manager sent an email to the Country Director stating, “[W]e may want to consider raising the case of [the Applicant’s tuition overpayment] with [the CO Vice President].”

18. On 16 February 2021, the Applicant selected a repayment option of withdrawing, per pay period, a portion of her salary. On 8 March 2021, payroll deductions from the Applicant's salary commenced and the final deduction was made on 18 August 2021.

*EBC investigation*

19. On 3 March 2021, EBC received an allegation from the Country Manager that three support staff, including the Applicant, may have misused WBG funds related to tuition assistance benefits. As part of its preliminary inquiry into the allegations, between March and June 2021, EBC conducted witness interviews and collected relevant documentation and emails.

20. On 2 June 2021, EBC sent the Applicant an email which provided preliminary notice of the allegations made against her, information on the investigative process, an overview of her rights, links to resources, and the names and types of services the Applicant could consult for advice.

21. On 14 June 2021, EBC provided the Applicant with the Notice of Alleged Misconduct formally informing her that it was "conducting an investigation into allegations that [she] may have committed misconduct under the World Bank Group (WBG) rules and policies by obtaining and retaining the benefit of unauthorized payments for tuition fees." The Notice of Alleged Misconduct also stated:

Throughout the course of disciplinary proceedings, staff are presumed innocent until all facts and circumstances have been obtained and a decision on the evidence has been made as to whether the staff member has been found to have engaged in misconduct. [...]

You will be requested by EBC to attend an interview in order to obtain your response to the allegation(s) of misconduct. You may be accompanied at the interview by another staff member as an observer, including a Staff Association representative, who is reasonably available, who is not connected to the matter under review, and who is approved in advance by EBC. The presence of such a person will not relieve you of the obligation to respond personally in the matter under review. [...]

You are required to cooperate fully in addressing the matter under review. This includes providing EBC with any information or materials that relate to the alleged misconduct. You have a right to respond to the allegation(s) made against you, either orally, or in writing, or both. In addition to your interview with EBC investigators, you may respond in writing to the allegations within the later of ten (10) business days from the date of your interview, or ten (10) business days from the date of receipt of the transcript of the interview. In your oral and/or written response, you are encouraged to identify any witnesses whom you believe possess information material to the allegations and provide whatever documents you believe may support your position.

22. On the same date, the EBC investigators interviewed the Applicant. At the start of the interview, the EBC investigators reminded the Applicant that she had the right to have an observer present during the interview, and the Applicant confirmed that she was willing to continue the interview without an observer. The EBC investigators' first interview with the Applicant took place on 14 June 2021 from 8:13 a.m. to 10:36 a.m.

23. During her first interview, the Applicant stated that the Country Manager had approved for the WBG to pay fifty percent of one year of her tuition, and that she had submitted an invoice for one hundred percent of the tuition for two years. She explained that the RM "role [is] to check on the invoices coming into the office and what we are going to pay," and that "[t]he RM didn't [do] her job." During the interview, the EBC investigator and the Applicant had the following exchange:

[The EBC investigator]: So, you submitted an invoice and you have submitted an Excel spreadsheet that indicated that the World Bank should pay 100 percent of your tuition for two years. And what I am asking is, regardless of whether anyone else made a mistake, do you think that you did the right thing by asking for 100 percent of tuition payment for two years?

[The Applicant]: I am doing my job. My job is to submit an invoice for payment. And it can be approved or not. I am a simple assistant helping the RM person.

[The EBC investigator]: Well, hold – just hold –

[The Applicant]: I submitted an invoice for payment.

[The EBC investigator]: Just hold – just hold on for one second, [the Applicant], and I am sorry to interrupt you, but this is a – this wasn't just a random invoice,

right? This was an invoice that you submitted that benefitted you, right? This was for your tuition.

[The Applicant]: What is the problem if it is for me or not? All the invoices are submitted the same way.

[The EBC investigator]: It's – it's not a problem. I am not suggesting that there was anything wrong with that. I just want to make sure that we are clear that the person who would benefit in this case, if the World Bank paid too much, that was you, right?

[The Applicant]: You – you are – you are saying that there is a bad intention here and I am doing this to get – to look at the Bank resources for me. There is no bad intention here. I am doing my job; submitting invoice for payment to be checked by Chennai, by RM, by the Manager, after all those processes to be checked after me. If I am asking money that do not belong to me from the Bank resources, someone would have stopped me because of all that check are done after me. I am a simple assistant. And I am not asking for money to be paid for me for my tuition because I am willing to steal the Bank resources. That's not true. There is another process that didn't take place. My intention – there is no bad intention here.

[The EBC investigator]: Okay. So, I – I want to just clear something up here. Which is, and we said this at the beginning, but I know that we are an hour-and-a-half into this, and I know that we have asked you some questions that may seem like they are tough questions. You are presumed to be innocent in this process. We have not – we are not accusing you of anything. There have been allegations against you, and – and our job, [...] along with EBC and – and maybe [the Human Resources Department Vice President (HRDVP)], is to determine whether there is – those allegations are true, whether there was misconduct here. And if so, whether there should be any sanction. So, that's why we are asking these questions, but I don't want to suggest that – that we are accusing you of something at this point. We are just trying to get to the bottom of this. But and – and I am sorry to keep asking the same question over and over, but we are sort of going in circles here, I feel like. Which is – is simply, if – if you have an invoice and the person who is going to benefit if that invoice is paid is you, do you think that you have any responsibility to only ask the Bank to pay money that the Bank has agreed to pay? Or do you think that you can submit any request for payment and as long as somebody ultimately approves it, then it's okay? Where is your responsibility in this if – if any responsibility?

[The Applicant]: Before submission of the invoice for payment and [the RM Analyst] came and said take your [purchase order] and we will talk later how we will pay the invoice. Here, my understanding and it was always my understanding that this overpayment will be cut from my salary. So, if I submit 100 percent of the invoice for Chennai for payment, it's – it's normal for me. It's not a mistake. There



is no bad intention. It's I did my job correctly and there is another job to be done by the RM person, which is cutting from my salary the overpayment there.

24. On 18 June 2021, the EBC investigators conducted a follow-up interview with the Applicant, lasting approximately two hours. During her interview, the Applicant requested that EBC interview the Chief Administrative Officer of the budget unit for the region.

25. On 24 September 2021, EBC provided the Applicant with the transcripts of her interviews and invited her to provide comments on the transcripts by 8 October 2021. The Applicant provided her comments by the specified deadline, and those comments were included in the EBC Final Investigation Report.

26. Between August and November 2021, EBC conducted more interviews with witnesses, including with the witness requested by the Applicant. At the start of its witness interviews, the EBC investigators routinely explained to each witness that "all EBC misconduct reviews [...] are strictly confidential" and, before proceeding with the interviews, directly asked witnesses for their affirmative commitment to keep the interviews confidential.

27. During an interview with the Country Manager, the EBC investigators asked whether the Country Manager discussed the Applicant's alleged misconduct with his Vice President. In response, the Country Manager stated, "Yes, of course, because he's my vice president. He needs to know." The Country Manager indicated that he verbally informed the Vice President in March of 2021 before he spoke with the EBC investigators regarding the allegation. The Country Manager also stated that, prior to reporting the allegation to EBC, he sought advice from his Country Director and a Senior HR Business Partner. In response, the EBC investigator stated, "Thank you. Yes, we understand that [...] certain people are already involved in the matter," and explained to the Country Manager the obligation that, going forward, everything discussed during the interview must be kept confidential and provided the rationale for maintaining the confidentiality of the proceedings.

28. The EBC investigators also asked the Country Manager, "Is there anything else you think we should know?" to which the Country Manager responded by informing the EBC investigators

that “before [his] time” as Country Manager there was an incident of “a large amount of money” disappearing from the Tunisia CO and that, because of that incident, the Tunisia CO has “a number of measures that were put in place in the period before [he] joined this office [...] to avoid any chance of misuse of financial resources [...]. So, the fact that this has happened is [...] concerning from our perspective.”

29. On 11 February 2022, EBC provided the Applicant with a Draft Investigation Report and informed her of her right to respond with any comments thereon within ten business days.

30. On 25 February 2022, the Applicant provided EBC with her comments on the Draft Investigation Report, which EBC included in the Final Investigation Report.

31. Also on 25 February 2022, the Applicant sought the services of a “Certified Professional Member of the French National Group of Alternative Medicine” who provided a certificate stating:

I, the undersigned, certify that I have received, today, [the Applicant], suffering from a state of general fatigue and constantly evolving anxiety, making her irritable and nervous, thus affecting her inner calm and her cognitive abilities. Said patient declares that her illness is mainly due to the multiple contradictions and disappointments that she constantly experiences within her workplace. Long-term psychotherapeutic treatment is imperative. This certificate is delivered to the concerned person for all due intents and purposes.

32. On 3 March 2022, EBC received additional comments from the Applicant, which were included as an annex to the Final Investigation Report and summarized in the report as follows:

[The Applicant] reiterated that the allegations are a total distortion of facts and that she acted in good faith with no intention to defraud the WBG. She emphasized that it was the role of resource management function to ensure the overpayment was repaid. She added that she has suffered anxiety and depression since the commencement of this investigation.

33. In its Final Investigation Report, EBC concluded:

[The Applicant] received and knowingly retained the benefit of the unauthorized overpayment from the WBG and by doing so, misused WBG funds.

[The Applicant] insisted several times that the resource management function and her former country manager were responsible for the consequences of her actions because they did not notice the mistake in the payment request and, the resource management function did not follow up on the overpayment reimbursement process to ensure deductions were made to her payroll.

Based on a careful review of the evidence, EBC concluded that there is sufficient evidence to substantiate the allegation that:

- a. [The Applicant] knowingly submitted for payment to the WBG a claim for tuition assistance covering one hundred percent of two years' tuition for her master's degree, despite having been informed and knowing that the WBG had only authorized payment of fifty percent of her tuition for one year of study; and
- b. [The Applicant] knowingly retained the financial benefit of the unauthorized overpayment, totaling 4,500 Tunisian Dinars (TND) (equivalent of US \$1,575), without notifying the WBG until the Tunisia Country Office discovered the overpayment and requested repayment on February 9, 2021. [...]

EBC found that the totality of her actions and omissions were inconsistent with (i) the fiduciary obligations imposed by the WBG on its staff; (ii) the requirement for financial integrity in dealings at the WBG; (iii) the responsibility of staff to ensure truthful and accurate communication of information reflected in accounting and other records; and (iv) the responsibility of staff to ensure the accuracy of data entry in accordance with WBG's business processes.

EBC found that [the Applicant's] actions and omissions amounted to a willful misrepresentation of facts and a misuse of WBG funds related to benefits. EBC further found [the Applicant's] actions to be contrary to the general applicable norms of prudent professional behavior and, inconsistent with the obligations of staff to behave in a manner befitting their status as employees of an international organization.

34. In the *Mitigating and Other Factors* section of the Final Investigation Report,

EBC noted the lapses by the resource management function and the country manager in the clearance, review and approval of the payment request. These parties have all admitted the lapses in the review of the payment request. Nevertheless, EBC finds that [the Applicant's] deliberate actions and inactions obfuscated the underlying facts and circumstances that made errors by management and resource management more likely to occur.

35. On 3 March 2022, EBC sent its Final Investigation Report to the then-HRDVP for a decision.

36. On 1 July 2022, a new HRDVP was appointed.

37. On 11 August 2022, the HRDVP informed the Applicant:

After a careful and thorough review of the EBC Report, I make no finding of misconduct. In my view, there is plenty of blame from all involved which led to this unfortunate matter. [...] As a World Bank Group (WBG) staff member, I remind you have a special responsibility to avoid situations and activities that might reflect adversely on the Organizations, compromise their operations, or lead to real or apparent conflicts of interest. I appreciate your cooperation with this matter and your service to the WBG.

38. On 10 November 2022, the Applicant was again examined by the “Certified Member of the French National Group of Alternative Medicine,” who provided a certificate stating:

I, the undersigned, certify that I have today examined the patient, [the Applicant], who is still suffering from a state of anxiety and irritability affecting her inner calm and serenity. Said patient is still subjected to psychotherapeutic treatment in the form of successive or close sessions.

*Present Application and remedies sought*

39. On 6 December 2022, the Applicant filed this Application with the Tribunal.

40. In her Application, the Applicant seeks compensation for physical, psychological, moral, and reputational harm in the amount of \$500,000.00. The Applicant further seeks legal fees and costs in the amount of \$24,300.00.

41. On 7 March 2023, the Bank filed its preliminary objections challenging the Application as inadmissible before the Tribunal. In *GZ (Preliminary Objection)*, Decision No. 689 [2023], the Tribunal dismissed the Bank’s preliminary objections and accepted “jurisdiction over the

Applicant's claims pertaining to unfair treatment and violations of due process by EBC." *Id.*, para. 55.

## SUMMARY OF THE CONTENTIONS OF THE PARTIES

### *The Applicant's Main Contentions*

#### *The Applicant was treated unfairly by EBC*

42. The Applicant maintains that EBC treated her unfairly because (i) their interviews with her were "too long," were stressful, and demonstrated bias; (ii) the EBC investigation "took too long"; and (iii) there was a breach of her confidentiality during the investigation.

43. According to the Applicant, EBC's interviews with her were stressful and inhumane because the EBC's "interrogation" of her lasted four hours, the investigators asked questions in an accusatorial manner conveying suspicion, and the Applicant "was in depression and sick after the interview."

44. According to the Applicant, the "facts alleged [in the Final Investigation Report] are totally unsubstantiated." In support of this contention, the Applicant maintains that the Final Investigation Report "ignored all proofs, documents, [and] emails" she presented demonstrating that the Country Manager and RM personnel were kept informed throughout the process and were therefore aware that the invoice was for two years' tuition and that she was approved to receive fifty percent of one year's tuition.

45. The Applicant further contends that she was prejudiced because the Country Manager made "inappropriate and totally undue insinuations" during his interview with EBC by discussing an instance of fraudulent embezzlement in the Tunisia CO. According to the Applicant, the Country Manager's statement in this respect constitutes an "attack on [her] honour and reputation."

46. The Applicant avers that the investigation took too long, lasting "15 months from June 2021 till August 2022."

47. The Applicant also contends that there was a breach of her confidentiality because (i) when interviewing witnesses, EBC informed the witnesses, who included the Applicant's colleagues, about the alleged misconduct before a final decision was reached by the HRDVP; (ii) the Country Manager discussed the alleged misconduct with his Vice President and other members of management; and (iii) the Applicant's managers were contacted by the HRDVP and copied on the HRDVP's decision letter.

48. The Applicant views the EBC investigation as "an attack to [her] honor, honesty, competence and reputation" and contends that the faults committed by EBC throughout the investigation's proceedings resulted in damages to her health, as demonstrated by her medical certificates, and her professional reputation, because of her colleagues' knowledge of the investigation.

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

*The EBC investigation was objective, impartial, and warranted, and the Applicant was treated fairly*

49. The Bank contends that EBC conducted its investigation in accordance with the Staff Rules. By way of example, the Bank points out that the Applicant was provided written notice of the allegations made against her, given the opportunity to respond to the allegations, informed of her rights during an investigative process, and given the opportunity to identify any information, evidence, or witnesses she believed might support her position. The Bank further points to the fact that EBC interviewed the witness mentioned by the Applicant.

50. The Bank also contends that the Applicant was treated fairly during the investigative process. According to the Bank, the duration of EBC's interview with the Applicant does not constitute unfair treatment by itself, and, in any event, the Applicant's participation in two two-hour long interviews is reasonable. Moreover, the Bank relies on the *Guide to EBC's Investigative Process*, which states that staff members have a duty to cooperate with investigations and attend an interview, to demonstrate that the Applicant's participation in the interviews is not evidence of unfair treatment.

51. In the Bank's view, during EBC's interviews with the Applicant, the EBC investigators treated the Applicant respectfully, recognizing her presumption of innocence; did not accuse her of anything; provided her with opportunities to stop and rest, bathroom breaks, and opportunities to clarify her testimony; and took notes of her concerns and witness suggestions. The Bank also maintains that the audio recording of EBC's interviews with the Applicant "proves that the tone of the interview questions and all interactions between [the] Applicant and the EBC investigators were fair, objective and respectful."

52. The Bank also contends that all confidentiality obligations were respected. In the Bank's view, the Applicant has failed to produce specific evidence of confidentiality violations. The Bank explains that the instances described by the Applicant, in which she believes the Country Manager violated her confidentiality, are instances in which the Country Manager properly reported suspected staff misconduct to his line manager in accordance with Staff Rule 3.00, paragraph 7.01.

53. The Bank rejects the Applicant's allegation that the Country Manager made insinuations of other misconduct committed by the Applicant, because the Country Manager never accused or insinuated that prior financial issues in the Tunisia CO were connected to the Applicant; rather, in the Bank's view, the Country Manager simply gave EBC "background context to his decision-making process behind the overall decision to review financial transactions in Tunisia, and his decision to seek the advice of his line manager, the Country Director, and of EBC."

54. The Bank acknowledges that EBC's Final Investigation Report "does not portray [the] Applicant's behavior in a positive light" and that it is therefore "easy to understand why [the] Applicant argues that EBC's findings were incorrect." However, the Bank maintains that just because the Applicant does not like or agree with some of EBC's characterizations does not mean that EBC deprived the Applicant of her right to an accurate, factual record presented in the Final Investigation Report. The Bank states that being a subject of an EBC investigation "will naturally be an uncomfortable process; but being uncomfortable does not equal being harmed." In the Bank's view, if the WBG's investigative units cannot conduct investigations out of fear of making subjects or witnesses uncomfortable while following all proper procedures, the investigative units will be unable to carry out their mandates.

55. The Bank contends that EBC produced a fair and balanced report, as evidenced by the fact that EBC (i) interviewed numerous witnesses, some of whom were proposed by the Applicant; (ii) reviewed documents the witnesses provided in support of their allegations and reviewed and considered the Applicant's comments on her transcripts as well as her comments on the Draft Investigation Report; (iii) reviewed and considered forty-five documents submitted by the Applicant in support of her position; and (iv) fairly represented the Applicant's statements, testimony, and exhibits and incorporated them into the Final Investigation Report.

56. The Bank further contends that there is a lack of evidence proving that the Applicant's alleged health damages were a consequence of the EBC investigation.

57. The Bank acknowledges that there was a delay in obtaining the HRDVP's decision and explains that this delay was caused in part because "the COVID-19 pandemic was barely winding down and a slow transition back to the office was taking place" and in part because of the transition from the former HRDVP to the new HRDVP, "who had to be brought up to speed." The Bank maintains, however, that the Applicant has failed to explain how she was harmed by the duration of the EBC process. The Bank points out that, in any event, there is not a Staff Rule or directive that establishes a limit or a deadline for the HRDVP's decision to be made in cases in which misconduct is determined not to have taken place.

58. In sum, the Bank maintains that the Applicant's claims should be dismissed because the Applicant has failed to provide evidence of unfair treatment or non-observance of her rights.

#### THE TRIBUNAL'S ANALYSIS AND CONCLUSIONS

59. The Applicant contends that EBC did not treat her fairly or impartially during its investigation into the alleged misconduct, citing its treatment of the Applicant during interviews, the duration of the investigation, and the evidence presented in the Final Investigation Report. In addition, the Applicant maintains that there was a breach of her confidentiality during the investigation.



60. The Tribunal notes that the Applicant's complaints in this respect must be examined bearing in mind that the Bank's disciplinary proceedings are administrative rather than criminal in nature. In *Kwakwa*, Decision No. 300 [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." The Tribunal in *Rendall-Speranza*, Decision No. 197 [1998], para. 57, 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.

61. An applicant who alleges lack of fairness or impartiality in an investigation must substantiate those allegations with evidence. In the context of alleged bias, for example, the Tribunal has held that "allegations of bias are insufficient as proof of bias" and that applicants bear the burden of substantiating allegations of bias or improper motive. *CW*, Decision No. 516 [2015], para. 88.

62. In previous cases where applicants have alleged unfairness in the context of investigations of misconduct, the Tribunal has looked to the manner in which the investigations were conducted and the fairness of the investigation reports. For example, in *CH*, Decision No. 489 [2014], paras. 77–78, the Tribunal noted that the transcript of the applicant's interview did not show that the investigators "had arrived with a pre-determination of guilt or that the interview was just a formality," and that there was "no evidence in the record that the investigators acted improperly." In *P*, Decision No. 366 [2007], paras. 66–69, the Tribunal scrutinized the fairness of the

misconduct investigation report at issue, noting that it included “subjective evaluations of the [a]pplicant” and relied on “farfetched” deductions and “impressionistic” evidence.

63. Against this background, the Tribunal turns to the specifics of the Applicant’s contentions and will review EBC’s process in conducting its investigation, including its (i) provision of notice; (ii) provision of an opportunity for the Applicant to respond to the allegations; (iii) overall treatment of the Applicant, including confidentiality measures; and (iv) presentation and analysis of the evidence.

64. The Tribunal observes that EBC provided the Applicant with a Notice of Alleged Misconduct on 14 June 2021, which informed the Applicant, in writing, that EBC was investigating “allegations that [she] may have committed misconduct [...] by obtaining and retaining the benefit of unauthorized payments for tuition fees.” The Tribunal further observes that the three-page Notice of Alleged Misconduct provided the Applicant with the specific dates, amounts of money, and documents that were under investigation as well as information on the investigative process, including her rights and duties.

65. The Tribunal also notes that, on 24 September 2021, EBC provided the Applicant with transcripts of her interviews with EBC and an opportunity to make any comments on or corrections to the transcripts. The record demonstrates that the Applicant commented on the transcripts by 8 October 2021. The Tribunal further notes that EBC provided the Applicant with the Draft Investigation Report, to which she responded on 25 February and 3 March 2022 with comments and additional documentary evidence, which were included in the Final Investigation Report.

66. The Tribunal is mindful that being interviewed for an investigation into misconduct may feel stressful to a subject; however, the Tribunal’s review of the transcripts and audio files of EBC’s interviews with the Applicant does not reveal any mistreatment or lack of objectivity. The record demonstrates that, during the interviews with the Applicant, the EBC investigators asked the Applicant to respond to the allegations under investigation, asking questions such as “What is your response to the allegations against you?” and “[D]id you understand that the World Bank was not [...] going to be responsible for 100 percent of your [...] tuition?” The EBC investigators also

asked the Applicant clarifying inquiries, such as “[A]m I repeating what you said correctly?” and “[W]hy did you submit invoices and agreements for 100 percent of the tuition for two years? Instead of submitting invoices for 50 percent for one year?” The Tribunal is satisfied that the EBC investigators conducted thorough interviews with the Applicant and remained respectful and neutral in their questioning. The Tribunal finds that the Applicant has not substantiated her allegations of bias.

67. Regarding the Applicant’s allegations that the interviews were unfair because they were too long, the Tribunal notes that the length of the interviews was necessitated in large part by the Applicant’s persistent refusal to respond directly to questions reasonably and respectfully asked of her. The Tribunal finds that the Applicant has failed to demonstrate any violation of her rights arising from the length of the interviews.

68. The Tribunal also reviewed the transcripts of EBC’s witness interviews. Noting that the purpose of an EBC investigation 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 Tribunal views EBC’s disclosure of the allegations being investigated to the witnesses, to the extent necessary to gather a fair and full record of facts, to be appropriate and proportionate. Moreover, the Tribunal notes that the EBC investigators informed the witnesses of their obligation to maintain confidentiality and obtained affirmative commitments from witnesses to keep the information discussed during the interviews confidential.

69. In reviewing the Country Manager’s interview transcript, the Tribunal observes the Country Manager’s statements to the EBC investigators indicating that he disclosed his suspicions of staff misconduct to his Vice President, other management, and a Senior HR Business Partner. Staff Rule 3.00, paragraph 7.01, sets out the relevant process to be followed in instances of suspected staff misconduct. It states:

Staff Members are encouraged to report suspected staff misconduct that falls within the scope of matters addressed by EBC, as set forth in Section 6, “Allegations of Misconduct Addressed by EBC,” of this Rule, to EBC or to line management, but are not required to do so. A Manager who suspects or receives a report of suspected

staff misconduct, however, has an obligation to report it either to EBC or, as provided in this Rule, to INT [Integrity Vice Presidency].

70. In view of this Staff Rule, the Tribunal considers the Country Manager's report of suspected misconduct to line management to be appropriate. Moreover, the Tribunal considers it to be entirely expected and encouraged for managers to seek, discreetly, advice and guidance from management and HR on such confidential matters. Furthermore, the Tribunal notes that the Applicant has not invoked any Staff Rule to demonstrate that the Country Manager's actions violated some rule of the Bank.

71. The Tribunal observes that the HRDVP copied the Applicant's management on the decision letter and recognizes this as a routine practice to keep management apprised of the outcome of the process, and not a violation of the Applicant's confidentiality. Moreover, the Tribunal notes that Staff Rule 3.00, paragraph 10.11, requires the HRDVP, in forming a decision regarding disciplinary measures, to hold a "consultation with the Staff Member's Manager." Therefore, the participation of the Applicant's management is a requirement in the process.

72. In considering the length of the investigation, the Tribunal is mindful that "misconduct investigations should be completed without unreasonable delay." *CH* [2014], para. 86. Nevertheless, the Tribunal is cognizant that it "does not micromanage the activity of investigative bodies." *Houdart*, Decision No. 543 [2016], para. 112.

73. The Tribunal observes that, in the present case, EBC received the Country Manager's allegations of misconduct on 3 March 2021 and concluded its investigation on 3 March 2022. Given the time required to gather documents, prepare and conduct witness interviews in different time zones, analyze the evidence, and prepare a thorough report, the Tribunal considers the investigation, in the present circumstances, to have been completed without unreasonable delay.

74. The Tribunal also observes that EBC provided its Final Investigation Report to the then-HRDVP on 3 March 2022 and that, approximately five months later, on 11 August 2022, the new HRDVP provided the Applicant with the determination that the Applicant had not committed misconduct. While acknowledging that the decision was delayed, the Bank contends that the delay

was justified by the onboarding of the new HRDVP in July 2022 and the “slow transition back to the office” after the COVID-19 pandemic.

75. In *BN*, Decision No. 451 [2011], para. 75, the Bank provided a similar line of reasoning to justify a period of more than one year for making a misconduct determination. In that case, the Tribunal was not persuaded by the Bank’s position, noting that the Bank did not provide “a cogent explanation why the Acting Vice President could not carry out this official business of HR.” *Id.*, para. 76. Nevertheless, the Tribunal did not find that the circumstances in that case warranted compensation to the applicant, because the delay ultimately benefited the applicant when the decision was taken more than three years after the start of the investigation and disciplinary sanctions could therefore no longer be imposed. *Id.*

76. Here, the Tribunal is likewise unpersuaded by the Bank’s position given that the Bank has failed to adequately explain why the HRDVP, or an acting or interim HRDVP, could not carry out this official business of HR prior to the appointment of the new HRDVP in July 2022. The Tribunal also notes that, while the Bank raised the COVID-19 pandemic as a factor which affected the timeliness of the HRDVP’s decision, the Bank did not furnish evidence to demonstrate in what ways the pandemic caused delays.

77. While the length of time it took the HRDVP to issue the determination that there was no misconduct was perhaps less than ideal, the Tribunal does not consider that, in the present circumstances, the delay was so inordinate as to rise to the level of an abuse of process warranting compensation.

78. The Tribunal reviewed the Final Investigation Report and determined that EBC did not, as the Applicant contends, ignore “all proofs, documents, [and] emails” presented by the Applicant to demonstrate that (i) the Country Manager and RM personnel were aware of both the invoice for her tuition and the amount approved for her tuition assistance, and (ii) the Country Manager and RM personnel “approved the payments on the [Bank’s account processing] system in full amount.” The Tribunal observes that the Final Investigation Report includes an email from the Applicant to the RM Analyst and another RM staff member, copying her Country Manager, in which the

Applicant attached the payment agreement from the university, which indicated that the agreement was for the full amount of tuition for two years, and a copy of the Country Manager's approval for her tuition assistance in the amount of fifty percent of her first year's tuition. The Final Investigation Report also includes records which show that the Applicant's submission for payment for the full two years' tuition was reviewed, and approved, by the RM Analyst, another RM staff member, and the Country Manager.

79. The Tribunal further notes that, in the Final Investigation Report, EBC did not give weight in its analysis of the Applicant's conduct to the information the Country Manager provided regarding prior financial issues in the Tunisia CO.

80. The Tribunal has carefully examined the record and observes that EBC (i) interviewed nine witnesses, some of whom were proposed or mentioned 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 the documents the Applicant submitted in support of her position.

81. The Tribunal considers that the Applicant was provided a meaningful opportunity to respond to and dispute the allegations and evidence against her and that her testimony and documentation were considered by EBC and included in the Final Investigation Report. The fact that the EBC investigators formed a different conclusion than what the Applicant wished for does not mean that the investigators ignored or misrepresented the Applicant's version of the events.

82. Based on the foregoing, and considering the entire record, the Tribunal is satisfied that EBC's investigation and Final Investigation Report are in accord with the applicable Staff Rules and the due process rights of the Applicant.

## DECISION

The Application is dismissed.

/S/Mahnoush H. Arsanjani  
Mahnoush H. Arsanjani  
President

/S/ Zakir Hafez  
Zakir Hafez  
Executive Secretary

At Washington, D.C., 10 November 2023