



**World Bank Administrative Tribunal**

**2023**

**Decision No. 696**

**HA,  
Applicant**

**v.**

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

**(Merits)**

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

**HA,  
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. On 30 September 2010, the Applicant joined the Bank as a Short-Term Temporary staff member based in the Tunisia Country Office (CO). On 1 April 2011, she was appointed to an Extended-Term Temporary position. On 21 May 2012, she was appointed to a Team Assistant position. On 16 December 2019, the Applicant was appointed to a Program Assistant position, Grade Level GC, in a unit based in Washington, D.C., 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 27 September 2019, the Applicant submitted an application form to the Country Manager seeking an education grant for the last two semesters of a two-year, long-distance master's degree program she was pursuing. Attached to the form was supporting documentation relating to the cost and description 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: "Last year of MA [master's degree] in Management and Development Project Management: US\$ 1330 (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, the Country Manager requested that RM arrange for the WBG to pay the tuition assistance directly to the educational institution.

9. On 10 October 2019, the Applicant emailed a copy of the invoice she received from her educational institution to the RM Analyst.

10. On 17 October 2019, the Applicant submitted via email, as her tuition assistance payment request, an invoice for 7,600 Tunisian dinars (TND), reflecting the tuition for the final year of her

master's program, to the transaction processing unit in Chennai for processing, stating, "Grateful if you could process the attached [invoice] on urgent basis." The Applicant copied the RM Analyst and the Country Manager 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.

11. When the transaction processing unit sought clarification on the description of the services received and the general ledger accounting entry applicable to the transaction, the RM Analyst responded, copying the Applicant, by sending a spreadsheet which provided the information requested by the transaction processing unit and reflected the total amount payable to the educational institution as 7,600 TND instead of 3,800 TND approved as tuition assistance. The RM Analyst asked the transaction processing unit to process the invoices based on the information in the spreadsheet.

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

13. On 5 November 2019, the WBG paid the educational institution 7,600 TND for one hundred percent of one year's 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. In February 2021, the RM Analyst and another RM staff member concluded their review of the Fiscal Year 2020 tuition assistance payment requests and notified the Country Manager that three staff members, including the Applicant, received tuition assistance benefits in error.

16. On 9 February 2021, the Applicant was formally notified by an RM staff member of the overpayment and presented with repayment options. In response, the Applicant chose a salary deduction payment plan to repay the overpayment.

*EBC investigation*

17. 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.

18. 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 other parties who might provide her with advisory services.

19. On 8 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.

20. On the same date, the EBC investigators interviewed the Applicant via video conference. 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' interview with the Applicant took place on 8 June 2021 from 8:02 a.m. to 10:25 a.m.

21. During her interview, the Applicant acknowledged that she submitted an invoice reflecting 100 percent of a full year's tuition and that there was nothing mentioned to indicate that her tuition assistance was approved for fifty percent of one year's tuition. She also explained that she "had not receive[d] anything that asked [her] to bring [a] 50 percent invoice." The Applicant stated that the overpayment was a misunderstanding from both sides, for herself because she submitted the full amount assuming the overpayment would thereafter be deducted from her salary, and for the RM Analyst because she did not make the deduction after the Country Manager had approved the full payment of the invoiced tuition.

22. During the interview, the EBC investigator asked whether the Applicant had discussed the EBC investigation with anyone. The exchange was as follows:

[The EBC investigator]: [W]hen I emailed you back on June 2nd, did you talk with anyone or communicate with anyone about the fact that EBC had reached out to you?

[The Applicant]: [...] I read your rules that it's forbidden. And I feel how to say to my family, what to say to my husband. He knows my dedication to the Bank and my sacrifice and all. He say that I'm conscious enough to maintain my job to help my kids. How can I, so it's something that cannot talk to anyone? To keep it with

me because it hurts me a lot and if I share it with my family, I will hurt them. And now it's, you know, my kids are passing exams, my husband is diabetic, I can't support husband.

[The EBC investigator]: Do you need a minute? I know this is hard. If there's any time that you want to turn off your camera and just take a minute to breath[e], feel free. Okay?

[The Applicant]: No. I'm fine. Thank you.

23. During the interview, the EBC investigator also asked if there was anyone the Applicant felt they should talk to about the issues covered in the interview, to which the Applicant replied, "I don't know."

24. On 24 September 2021, EBC provided the Applicant with the transcript of her interview and invited her to provide comments on the transcript.

25. On 3 October 2021, the Applicant provided EBC with comments on the transcript of her interview. Her comments, which were included in the Final Investigation Report, were as follows:

The only feedback that I have is that due to this accusation I became depressed suffering from insomnia and anxiety which damaged my mental and physical health also it has a negative Impact on my family life.

I'm a staff who always believed in career development, for that I had my degrees after being hired. I'm a staff proud of the Bank. I have trust the [B]ank values, our communication systems, our trainings especially "How to build trust". I have never expected to be treated from my Manager in such way. I thought that our relation in Tunis office was based on Trust. For which reason an RM issue is treated as Ethic case? Till now I haven't the answer.

Despite this bad experience, I still believe in our Bank justice also that you will manage our case with fairness as we are all equal: Manager, RM, ACS [Administrative Client Support], we shouldn't destroy someone's career and family future based on negative perceptions. I think this case is the result of a weak internal RM control system with miscommunication.

I would like to thank you so much for giving me the opportunity to explain what's happened exactly and to express my thoughts.

26. Between August and November 2021, EBC conducted more interviews with witnesses. 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 interview 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 is my vice president. He needs to know.” The Country Manager also stated that, prior to reporting the allegation to EBC, he sought advice from his Country Director and a Senior Human Resources (HR) Business Partner and noted that the Applicant’s new supervisor “has also been alerted to this issue as well.” 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 as well as 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, a legal opinion from her lawyer, and a medical certificate, all of which EBC



included in the Final Investigation Report. The medical certificate, dated 22 February 2022, and signed by a professional with a diploma in cognitive and behavioral psychotherapies, stated:

[The Applicant] has been consulting me regularly since 18/02/2021, following a professional conflict. She is still under medical and medicinal follow-up and suffers from an important Anxiety currently sub-chronic with Panic Disorder, thoracic oppressions with palpitations and sensation of collapse and imminent death. She also suffers from sleep and temperament disorders with a tendency to susceptibility and irritability. [The Applicant] constantly refers in her speech to her professional conflict episode, particularly traumatic and obsessive.

31. 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. [...]

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 benefits covering one hundred percent of a year's 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 3800 Tunisian Dinars (TND) (equivalent of US \$1,330), 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.

32. 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.

[The Applicant] apologized to her management and during her interview and insisted the entire incident was a misunderstanding. She acknowledged her gratitude to the WBG for the benefits afforded by the WBG throughout her career and maintained that she would not jeopardize her name, reputation and career by misappropriating WBG funds.

33. On 3 March 2022, EBC sent its Final Investigation Report to the then–Human Resources Department Vice President (HRDVP) for a decision.

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

35. 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.

#### *The Applicant's health*

36. Following her interview with EBC, the Applicant sought the services of four medical professionals.

37. On 11 October 2022, the Applicant was approved for Short-Term Disability benefits until 31 January 2023, which were subsequently extended until 31 January 2024.

38. Among the medical records submitted in this case is a certification from her psychiatrist, dated 11 October 2022, which stated, "I, the undersigned, certify to give my medical care to [the

Applicant]. She suffers from a severe depressive episode. Her state of health requires care as well as her being put on sick leave.”

39. Another medical report, dated 29 October 2022, stated:

I, the undersigned [physician,] certify that I have been following [the Applicant] in my consultation for various [...] problems for years. The patient began to develop a goiter in June 2021, with progressive signs of hyperthyroidism. Ultrasound, blood tests and scintigraphy show the slight progression of the disease which is partially linked to the stress to which she was subjected during this period. It will be necessary to operate the patient’s thyroid in the near future to avoid possible complications due to the goiter.

40. On 6 January 2023, the Applicant underwent thyroid ablation surgery.

*Present Application and remedies sought*

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

42. In her Application, the Applicant seeks compensation for physical, psychological, moral, and reputational harm in the amount of \$1,000,000.00.

43. The Applicant also seeks, as relief, a promotion to Grade Level GD and for her term contract to be converted to an open-ended contract based on “[r]eputation damage which could be an obstacle to limit her promotions and her contract conversion to open-ended staff.”

44. The Applicant further seeks legal fees and costs in the amount of \$40,911.32.

45. On 7 March 2023, the Bank filed its preliminary objections challenging the Application as inadmissible before the Tribunal. In *HA (Preliminary Objection)*, Decision No. 690 [2023], the Tribunal accepted “jurisdiction over the Applicant’s claims pertaining to unfair treatment and violations of due process by EBC.” *Id.*, para. 80.

## SUMMARY OF THE CONTENTIONS OF THE PARTIES

*The Applicant's Main Contentions**The Applicant was treated unfairly by EBC*

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

47. According to the Applicant, EBC’s interview with her was stressful and inhumane because the interview lasted four hours and the questions were accusatory, causing her to cry during the interview and be “in depression and sick after the interview.” The Applicant views the investigation as “an attack to [her] honor, honesty, competence and reputation.”

48. 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 copied throughout the process and were therefore aware that the invoice was for one year’s tuition and that she was approved to receive fifty percent of one year’s tuition.

49. 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 statements in this respect constitute an “attack on [her] honour and reputation.”

50. The Applicant avers that the investigation took too long, lasting “18 months” from the time the allegations were received until the time of the HRDVP decision.

51. 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 managers in her new unit; and (iii) the Applicant's management was copied on the HRDVP's decision letter.

52. The Applicant 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*

53. 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.

54. The Bank also contends that the Applicant was treated fairly during the investigative process. According to the Bank, the two-hour-and-twenty-three-minute duration of EBC's interview with the Applicant was reasonable and does not constitute unfair treatment by itself.

55. 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, and that staff members subject to an investigation have the specific right to be accompanied by another staff member or a Staff Association representative.

56. In the Bank's view, during EBC's interview 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. The Bank also maintains that the audio

recording of EBC's interview 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."

57. 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. According to the Bank, the Country Manager properly reported suspected staff misconduct to his line manager in accordance with Staff Rule 3.00, paragraph 7.01.

58. 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 general review of financial transactions in Tunisia," and his decision to seek the advice of his line manager, the Country Director, and of EBC.

59. 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.

60. The Bank contends that EBC produced a fair and balanced report, as evidenced by the fact that EBC (i) interviewed eight witnesses, (ii) reviewed documents the witnesses provided in support of their allegations and reviewed and considered the Applicant's comments on her transcript as well as her comments on the Draft Investigation Report, (iii) reviewed and considered

the nine 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.

61. 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.

62. 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 needed time to familiarize herself with the duties and responsibilities of the role. 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.

63. 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

64. 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 her interview, 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.

65. 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.

66. 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.

67. 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.



68. 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.

69. The Tribunal observes that EBC provided the Applicant with a Notice of Alleged Misconduct on 8 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.

70. The Tribunal also notes that EBC provided the Applicant with a transcript of her interview with EBC and an opportunity to make any comments on or corrections to the transcript. The record demonstrates that the Applicant commented on the transcript on 3 October 2021. The Tribunal further notes that EBC provided the Applicant with the Draft Investigation Report, which she responded to on 25 February 2022 with comments, a legal opinion from her lawyer, and a medical certificate, which were all included in the Final Investigation Report.

71. 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 transcript and audio file of EBC's interview with the Applicant does not reveal any mistreatment or lack of objectivity. The record demonstrates that, during the interview with the Applicant, the EBC investigators asked the Applicant to respond to the allegations under investigation, asking questions such as "Is there more that you want to say about that Notice [of Alleged Misconduct] and the specific allegations that were in it?" and "[D]id you understand in the fall of 2019 that you were [going to] pay 50 percent of your tuition payments and that the World Bank was [going to] pay 50 percent? Or were you confused about that?" The EBC investigators also asked whether the Applicant needed a break, stating, "Do you need a minute? I know this is hard. If there's any time that you want to turn off

your camera and just take a minute to breath[e], feel free. Okay?” The Tribunal is satisfied that the EBC investigators conducted a thorough interview with the Applicant and remained respectful and neutral in their questioning. The Tribunal finds that the Applicant has not substantiated her allegations of bias.

72. Regarding the Applicant’s allegations that the interview was unfair because it was too long, the Tribunal notes that the length of the interview was necessitated partly by the Applicant’s recurrent 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 interview.

73. 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.

74. 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].

75. 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.

76. 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.

77. 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.

78. 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.

79. 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.

80. 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.*

81. 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.

82. 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.

83. 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 accounts payable] system in full amount." The Tribunal observes that the Final Investigation Report includes (i) the 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 semesters; and (ii) the email from the Country Manager of 4 October 2019, with copy to the RM Analyst, specifying the approved amounts of tuition the

Applicant and other staff members were approved to receive. The Final Investigation Report also includes records which show that the Applicant's submission for payment for the full two semesters' tuition was reviewed, and approved, by the RM Analyst, another RM staff member, and the Country Manager.

84. 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.

85. The Tribunal has carefully examined the record and observes that EBC (i) interviewed eight witnesses; (ii) reviewed documents the witnesses provided in support of their allegations; (iii) reviewed and considered the Applicant's comments on her interview transcript and the Draft Investigation Report; and (iv) reviewed and considered the documents the Applicant submitted in support of her position.

86. 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.

87. 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