

## Summary of HA v. IBRD (Preliminary Objection), Decision No. 690 [2023]

The Applicant alleged unfair treatment and violations of due process by the Ethics and Business Conduct Department. Some of the Applicant's requested remedies included a promotion to Grade Level GD and for her term contract to be converted to open-ended.

The Applicant submitted her Application on 6 December 2022, however the Application did not meet the formal requirements of the Tribunal's Rules. Pursuant to Rule 7, paragraph 9, of the Tribunal's Rules, the Executive Secretary called upon the Applicant to make the necessary corrections to the Application. The Applicant submitted all the corrections by 27 January 2023.

The Bank averred that the Application should be dismissed because (i) it failed to identify any specific non-observance of the Applicant's contract of employment or terms of appointment; (ii) the corrected Application was not filed in a timely manner; and (iii) the Applicant failed to exhaust internal remedies.

The Tribunal found that the Applicant presented an Application alleging unfair treatment and violations of due process by the Ethics and Business Conduct Department, which the Tribunal determined was a plausible claim of the non-observance of her contract of employment or terms of appointment. It therefore found that the circumstances warranted an examination of the merits of her allegations.

With respect to the timeliness of the Application, the Tribunal noted that the parties agreed that the Application was filed within the time limit specified in Article II(2) of the Tribunal's Statute, albeit without meeting all of the formal requirements of Rule 7 of the Tribunal's Rules. The Tribunal stated that the Application's deficiency did not signify that the Application was submitted out of time, because paragraph 9 of Rule 7 of the Tribunal's Rules afforded the Applicant the possibility of correcting her Application. Given these circumstances, the Tribunal found that the Application was filed in a timely manner.

With respect to the Applicant seeking a promotion and conversion of her contract type, the Tribunal observed that the Applicant did not put forward evidence to demonstrate that she had exercised timely recourse to Peer Review Services, which the Tribunal noted is the appropriate forum to bring claims pertaining to promotions and conversions of contract type. Because the Applicant did not exhaust internal remedies, and because the Bank did not agree to the submission of claims pertaining to promotion and contract conversion directly to the Tribunal, the Tribunal found that these claims did not presently meet the requirements of Article II(2)(i) of the Tribunal's Statute. Accordingly, the Tribunal found that it did not have jurisdiction to review the Applicant's claims pertaining to the decisions not to promote the Applicant to Grade Level GD and not to convert the Applicant's contract type from term to open-ended.

**Decision:** The Bank's preliminary objections with respect to claims pertaining to promotion and contract type were upheld; all other preliminary objections were dismissed; and the Bank was ordered to contribute to the Applicant's legal fees and costs.