

## Summary of HE v. IBRD, Decision No. 698 [2023]

The Applicant joined the Bank in 2019 at the age of 54 as the Bank's first Chief Data Privacy Officer, Grade Level GI. In this role, she was responsible for implementing the Bank's Data Privacy Policy and leading the newly-created Data Privacy Office (DPO), which was organizationally housed under the Compliance Vice Presidency Unit (VPU). In 2021, discussions arose about reorganizing DPO and regrading the Chief Data Privacy Officer position. The Applicant and the Compliance Vice President voiced concerns about the proposed changes, and no decision on the matter was reached in 2021. In 2022, the Compliance Vice President left the Bank and was succeeded by the New Compliance Vice President in September of that year. In October 2022, the European Union Commission completed its audit of the Bank's data protection measures and awarded the Bank's data protection framework a perfect score. Also in October 2022, the Applicant was informed that her appointment would not be renewed because "senior management has decided to adjust the role of the leadership of the data privacy function to cover it with a lower grade level staff."

The Applicant contested the non-renewal decision, claiming it was an abuse of discretion and was carried out in violation of a fair and reasonable procedure.

The Tribunal accepted the Bank's determination that there was a change in its business needs, namely, that after the DPO's initial set up, there was no longer a need for a GI-level Chief Data Privacy Officer and that DPO could be organizationally housed under the Risk VPU so that the Compliance VPU could be dissolved.

The Tribunal then analyzed the record to determine whether the change in business needs provided a reasonable and observable basis for the non-renewal decision. The Tribunal determined that (i) the Chief Data Privacy Officer role continued in the reorganized DPO, (ii) the Applicant's skills matched the skills identified by the Bank as necessary for the GH-level Chief Data Privacy Officer position, and (iii) the Applicant was a good performer. The Tribunal therefore found that the Bank failed to provide to the Applicant a reasonable and observable basis for the non-renewal decision, and thereby abused its discretion regarding staffing needs and failed to treat the Applicant fairly.

Given the absence of contemporaneous documentation of the non-renewal decision, the initial lack of transparency regarding who made the non-renewal decision, and the Bank's failure to alert the Applicant of the possibility that her reluctance to support the reorganization of DPO and its new reporting line could be a factor in the renewal of her appointment, the Tribunal found that the Bank failed to act with fairness and transparency.

**Decision:** The Bank was ordered to pay the Applicant 2 years' salary for the improper non-renewal decision and its implication on her pension benefits, 6 months' salary for the Bank's failure to act with fairness and transparency, 6 months' salary for the harm to the Applicant's career prospects, reputation, and professional life, and the Applicant's full legal fees and costs.