

Summary of ER (No. 2) v. IBRD (Preliminary Objection), Decision No. 606 [2019]

The Applicant challenged the Office of Ethics and Business Conduct's (EBC) decision to close its investigation into the budgeting matters raised by the Applicant in January 2018. The Applicant raised claims about his unfair treatment in reporting the budgeting matter and his Fiscal Year 2017 (FY17) performance evaluation. The Applicant also sought a declaration that the Bank had violated the International Financial Institutions Act, in relation to the budgeting matters that he had raised.

The Bank filed a preliminary objection arguing that the Applicant's claims are subject to *res judicata* and, even if *res judicata* does not apply, the Applicant's claims related to budgeting practices which do not form part of the Applicant's contract of employment or terms of appointment and therefore fail to fall within the jurisdiction of the Tribunal.

The salient facts were the same in this case as in *ER (Preliminary Objection)*, Decision No. 586 [2018]. The Applicant brought what he perceived to be budget-related anomalies to the attention of EBC. An audit was performed by the Bank's Internal Audit Department (IAD), which noted some documentation lapses and recommended improvements to provide for a more robust documentation trail in the tracking of budget decisions. The Applicant was awarded "Bravo Points" for his work.

Article II, Para. 1 of the Tribunal's Statute provides:

The Tribunal shall hear and pass judgment upon any application by which a member of the staff of the Bank Group alleges non-observance of the contract of employment or terms of appointment of such staff member. The words "contract of employment" and "terms of appointment" include all pertinent regulations and rules in force at the time of alleged non-observance [...].

The Tribunal noted that the Applicant had not identified any adverse consequences actually suffered by him. The Tribunal found that the Applicant's concerns regarding the budgeting formulae do not relate to an allegation of non-observance of the Applicant's contract of employment or terms of appointment. It further noted that even though the Applicant objects to the use of those formulae, it still does not meet the requirements of Article II. The Tribunal found that the potential claims raised by the Applicant regarding his FY17 performance evaluation and FY16 work program had not gone through the proper internal channels. Lastly, the Tribunal found that it was not competent to rule on a general claim of breaching the International Financial Institutions Act.

Decision: The Application was dismissed.