

**THE ADMINISTRATIVE TRIBUNAL
OF THE
EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT**

EBRDAT 2025/AT/01

Appellant

vs

European Bank for Reconstruction and Development

DECISION

by a Panel of the Administrative Tribunal comprised of

Marielle Cohen-Branche (Chair)

Chris de Cooker

Thomas Laker

26 March 2026

I. INTRODUCTION

1. This Decision by the EBRD Administrative Tribunal “**Tribunal**” pertains to the reimbursement of the Appellant’s legal costs incurred when contesting the decision by the Chief Compliance Officer (“**CCO**”) taken on 20 December 2024 (“**CCO Decision 1**”) not to open a Confidential File into the Appellant’s complaint under Article 2.01(a) of the Conduct and Disciplinary Rules and Procedures (“**CDRPs**”). The Appellant submitted a Request for Review of an Administrative Decision on 17 February 2025 (“**RRAD1**”) in which she challenged CCO Decision 1, which was subsequently reversed on 3 March 2025.
2. The Tribunal received the Appellant’s Statement of Appeal (“**Appeal**”) on 18 September 2025 and issued a Suspension Decision on 23 December 2025 (“**Suspension Decision**”) on the grounds that parallel proceedings (ARC90/2025) before the Administrative Review Committee (“**ARC**”) had not yet been concluded - proceedings in which the Appellant had submitted a second Request for Review of an Administrative Decision on 18 June 2025 (“**RRAD2**”), which challenged *inter alia* the second of the CCO’s Decision dated 25 April 2025 to dismiss the Appellant’s allegations of misconduct against her Manager, without proceeding to a formal investigation following an Initial Inquiry, in accordance with Article 4.01 of the CDRPs (“**CCO Decision 2**”).
3. In the Bank’s Response of 20 October 2025 to the Appeal, the Tribunal was informed that, in the context of proceedings related to RRAD2 before the ARC, the Bank had since offered as a gesture of goodwill, to pay the sum of £6,000 (inclusive of VAT) towards legal costs incurred submitting RARD1. The Bank had previously refused to consider reimbursement of legal fees incurred in the preparation of RRAD1.
4. The Bank maintained in its Response that such a request for reimbursement of legal fees had no legal basis.
5. The goodwill payment proposed by the Bank towards the cost of the Appellant’s legal fees amounted to around two-thirds of the request for full reimbursement of legal costs claimed before the Tribunal by the Appellant. The Appellant had justified this request on the grounds that she had been forced to file RRAD1 on 17 February 2025 to challenge CCO Decision 1 (nine months after the request was referred to the Office of the Chief Compliance Office (“**OCCO**”)), in which the CCO declared the request for an investigation into allegations of bullying and harassment inadmissible on the grounds that it "falls outside the ambit of those rules".

6. The Tribunal, in §25 of its Suspension Decision, considered that the proceedings before the ARC (ARC90/2025) and the Appellant's Appeal (EBRDAT 2025/AT/01) before the Tribunal were "sufficiently intertwined and that, in particular, the Bank's latest offer to make such a proposal precisely on the basis of what had previously been refused justifies, in the interests of judicial economy and the proper administration of justice, that the Tribunal suspends the present proceedings pending the final outcome of the proceedings during which the proposal by the Bank was made".
7. The Tribunal added in §26: "The suspension preserves the rights of both parties and ensures consistency in jurisprudence. The suspension is without prejudice to the Tribunal's position in law on admissibility and merits of the case".
8. In §27, the Tribunal requested "the parties to inform the Tribunal of further developments in the matter" and specified in §28, that "for these reasons, the Tribunal suspends the present procedure until completion of the proceedings during which the financial proposal by the Bank was made".
9. The ARC's Report and Recommendation in case ARC90/2025 ("**ARC Report**") issued on 12 January 2026 recommended that the President "dismiss all claims and the related remedies sought". On 9 February 2026, the Decision by the President in relation to the ARC Report ("**President's Decision**") declared that she concurred with the "ARC's findings and recommendations in their entirety" and, accordingly, took the decision to uphold CCO Decision 2 taken under Article 4.03 (i) of the Bank's CDRPs on 25 April 2025 to close the matter without processing to a formal investigation.
10. The ARC Report also noted regarding the reimbursement of legal fees in connection with RRAD1, that the Bank's gesture of goodwill to reimburse reasonable legal fees did not create a legal entitlement, but that it falls "within the margin of administrative discretion afforded to the Bank and is not inconsistent with the framework of the Directive".
11. The ARC concluded that there was "no legal basis to recommend full or unlimited reimbursement of the Staff Member's legal fees, nor to extend any recommendation to costs associated with a prospective appeal before the EBRD Administrative Tribunal".
12. Furthermore, the President's Decision noted that, "with respect to the reversal of the decision not to open a Confidential File, the Bank, on a goodwill basis, formulated an offer

to reimburse reasonable legal fees directly associated with the drafting and submission of [the Appellant's] request for review dated 17 February 2025".

13. The President of the Bank therefore invited the Appellant "to approach the Employee Relations team of the Human Resources department to obtain such reimbursement within the limits mentioned by the Bank in these proceedings".
14. On 18 February 2026, in accordance with §27 of the Suspension Decision, the Bank submitted a brief to inform the Tribunal of the progress in these proceedings, stating that "it remains at the Tribunal's disposal and awaits any further instructions in these proceedings, as deemed necessary by the Tribunal".
15. On 19 February 2026, the Appellant made a submission in reply and requested that the Tribunal:
 - a. "Note the developments in ARC/90/2025 and the Presidential Decision of 9 February 2026, as now formally updated pursuant to the Tribunal's request;
 - b. Lift the suspension of these proceedings and issue directions, as deemed necessary, for continuation of any written procedure, including, if required, a timetable for any further submissions;
 - c. Consider of its own motion the procedural regularity and admissibility of the Respondent's Response of 20 October 2025 in light of the improper format issue now raised formally, and make any corrective directions it deems appropriate; and
 - d. Note that the Appellant maintains that the ARC's costs and legal fees reasoning, and the President's endorsement of it, is materially flawed and unreliable, and that the Appellant reserves all rights to challenge the Presidential Decision within time, if so minded".

II. PROCEDURAL BACKGROUND

16. The facts, proceedings and positions of the parties leading to the Tribunal's decision to suspend proceedings on 23 December 2025, were set out in the Suspension Decision to which reference must be made.

III. CONSIDERATIONS OF THE TRIBUNAL

17. First, the Tribunal will examine whether the conditions for ending the suspension have been met. Second, it will consider issues that fall within the scope of the Appeal filed on 18 September 2025. Third, it will rule on the admissibility of the Appellant's request for

full reimbursement of legal fees, as contested by the Bank, and finally it will rule on the President's Decision to maintain her offer of £6,000 (inclusive of VAT).

The conditions for ending the suspension

18. On 18 February 2026, the Bank, pursuant to the request of the Tribunal, informed the Tribunal that the President had issued an Administrative Review Decision on 9 February 2026 accepting the recommendation, as set out in the ARC Report, that the President “uphold the decision contested by the Appellant, and dismiss the Appellant’s claims and request for remedies”. The Bank’s submission also noted the ARC’s observation in its Report that “while this offer does not create a legal entitlement, the ARC considers that it falls within the margin of administrative discretion afforded to the Bank and is not inconsistent with the framework of the Directive”, and that the ARC further concluded that “(...) there is no legal basis to recommend full or unlimited reimbursement of the [Appellant’s] legal fees nor to extend any recommendation to costs associated with a prospective appeal before the EBRD Administrative Tribunal. This claim should therefore be dismissed”.
19. The Appellant’s 19 February 2026 Submission in Reply (Update following the Suspension Decision) invites the Tribunal to revisit the suspension “now that the internal process has concluded, the judicial economy rationale for continued suspension has fallen away or, at minimum, must be reassessed, particularly given the contested reliability of the ARC Report and the Presidential Decision on the costs and legal fees issue”.
20. The Appellant does not specifically take a position on the offer by the Bank to make a goodwill payment for legal fees related to RRAD1 but continues to put forward the arguments defended before the Tribunal.
21. The President’s Decision notes “with respect to the reversal of the decision not to open a Confidential File, the Bank, on a goodwill basis, formulated an offer to reimburse reasonable legal fees directly associated with the drafting and submission of (the Appellant’s) request for review dated 17 February 2025” and that “(the Appellant is) invited to approach the Employee Relations team in the Human Resources department to obtain such reimbursement within the limits mentioned by the Bank in these proceedings”.
22. The Tribunal considers the conditions are met for the suspension to be lifted and a final Decision to be rendered by the Tribunal.

The Tribunal's consideration of the issues that fall within the scope of the Appeal filed on 18 September 2025

23. In the present case, the Tribunal is seized only of the element of the Appeal filed on 18 September 2025, which relates to the communication to the Appellant by the Bank that it was not prepared to pay the Appellant's legal fees incurred in contesting the CCO Decision 1 not to open a Confidential File into the Appellant's complaint under the CDRPs. Accordingly, only the element of the President's Decision relating to the reimbursement of legal fees associated with the submission of RRAD1 falls within the Tribunal's consideration. The Tribunal will therefore not address the other issues arising under RRAD2. It will take into account the ARC Report, but solely the conclusions regarding the request for reimbursement of legal fees, since no Statement of Appeal has been submitted in respect of RRAD2, which contests CCO Decision 2 pertaining to the Administrative Decision by the CCO in accordance with Article 4, paragraph 4.03 of the CDRPs, not to proceed to a formal investigation following the Initial Inquiry into the Appellant's allegations, due to insufficient evidence, as detailed in OCCO's memo to the Appellant dated 25 April 2025.

The Tribunal's considerations on the admissibility of the Appellant's request

Applicable Law

24. According to the Appellant, the Bank's refusal to reimburse legal fees incurred during her challenge of CCO Decision 1, which was subsequently overturned, is contrary to the general principal that "costs follow cause" as recognised under international law (see Agodo et al, WBAT [1989] Decision No. 76 §6-10).
25. The Tribunal has authority to award costs and fees including attorneys' fees. In support of this argument the Appellant argues that RRAD1 is distinct from the RRAD2, and such inadmissibility would create an "inequality of arms". The Appellant contends that "if you participate at any level within the administrative review process or for the matter within the Respondent's internal justice system, and you prevail, then you should be entitled to reimbursement of your reasonable legal fees".
26. In summary and as reproduced in full in the Tribunal's Suspension Decision, the three principal reasons the Bank challenged the admissibility of the Appellant's request for reimbursement of legal fees were:

- (i) As argued in the President's Administrative Decision of 7 July 2025, the communication of 30 May 2025 advising that the Bank would not be considering the reimbursement of the Appellant's legal fees, was a communication "only of an informative nature" and did not "constitute a decision taken in the administration of and/or impacting [the Appellant]'s terms and conditions of employment for the purposes of Section IV, paragraph 3(a) of the ARP Directive".
 - (ii) In the same Decision, the President informed the Appellant that it is not a term and condition of employment with the Bank that legal fees incurred in dealings on employment matters are reimbursed. There are certain exceptions that may apply regarding reimbursement of legal fees with the Bank "incurred in connection with contentious proceedings before the ARC and the EBRD Administrative Tribunal".
 - (iii) The Respondent's email of 30 May 2025 says it was the Appellant's personal choice to engage the services of an external legal advisor when free access is provided by the Bank to a Staff Legal Adviser ("SLA"), with the consequence that the employee's alternative choice to use an external legal adviser is unlikely to create an obligation to reimburse the legal fees.
27. Section IV, paragraph 3(a) of the ARP Directive stipulates "Individual Decisions (...) which allegedly alter, in an adverse manner, or allegedly are in breach of, the terms and conditions of employment of the Staff Member in force immediately before such Administrative Decision is taken".
28. The Tribunal considers that the Respondent's email of the 30 May 2025 stating that legal fees following the conclusion of RRAD1 would not be reimbursed, cannot be considered a mere communication. It can only be seen as an Administrative Decision. It is an individual decision taken by a person vicariously imputed to the Bank, which was notified to the Appellant on 30 May 2025.
29. Section 3 (a) of the Staff Regulations (General obligations of the Bank) states as follows:
- (a) The Bank shall at all times act with fairness and impartiality in its relations with staff members. In particular, the Bank shall:
 - (i) establish and maintain appropriate safeguards to protect the confidentiality or personal information about staff members;

- (ii) make all reasonable efforts to ensure appropriate protection and safety for staff members in the performance of their duties: and
- (iii) take such measures as may be necessary to protect the international character of the staff in discharging their duties.

30. The Tribunal's interpretation is based on the text of the email of 30 May 2025 itself, which states: "It was, of course, [the Appellant]'s choice to engage the services of [external legal advisor] ... Where staff choose to engage external legal advisors, they do so at their own discretion and expense and cannot have any expectation that such costs are recoverable".
31. In addition, the Respondent's *a contrario* argument to consider the request as inadmissible is not shared by the Tribunal. The Tribunal considers the mention in the Appeal of Section IV, paragraph 6.4.2 (j) of the ARP Directive, which states "The Report and Recommendation [of the ARC] shall also include a recommendation in respect of award, if any, of reasonable legal costs incurred by the [Appellant] for the preparation of the [RARD]", is not sufficient to rule out reimbursement of costs before that process on the ground of this general and classical *a contrario* principle: although *a contrario* reasoning is indeed a principle of legal interpretation, it is not freely applicable; its use is subject to strict conditions. It is necessary to examine under what conditions one can deduct from a text that the opposite consequence applies to situations not mentioned there; the main text must be written in a restrictive or exclusive manner in order to infer that in other cases, this right is excluded. One cannot infer a prohibition solely on the basis that a case is not mentioned. The *a contrario* interpretation results from the general principle of interpretation of laws.

The President's Decision to maintain her offer of £6,000 (inclusive of VAT).

32. Finally, the Tribunal takes note that the Bank's internal free assistance service provided by the SLA, regardless of its undisputed practical usefulness, is prevented from representing the staff member. The SLA can only assist the staff member and provide advice. It does therefore not replace the right to consult an attorney who can represent the staff member.
33. At the very least, as the Appellant points out in her conclusions, it is worth recalling the experience of the United Nations, which has an Office of Staff Legal Assistance (OSLA) with around twenty counsels worldwide. Even in these circumstances the "United Nations Appeals Tribunal (UNAT), the policy of which is to award costs only in "most exceptional

circumstances” (...), has been awarding incremental legal expenses in appropriate cases”. In other words, the existence of this service does not completely rule out the reimbursement of costs of counsel.

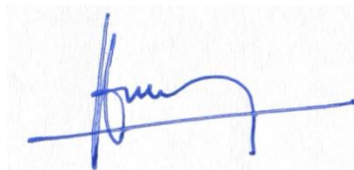
34. For these reasons, the Tribunal considers that a request for reimbursement of legal fees is admissible. The Tribunal is of the opinion that when an administrative decision is overturned following a Staff Member’s request for review, and before the ARC is seized, it should not, in principle, preclude the right for an employee to ask not to suffer the consequences of a successful action. Moreover, the action contributed to an early resolution of the dispute.
35. Nevertheless, even if such a successful request in the present circumstances is admissible and creates a right to ask for reimbursement of legal fees, the Tribunal considers that granting partially or totally such a request is within the Bank’s discretion. The Tribunal’s sole authority in such circumstances is to determine on a case-by-case basis whether the Bank abused its discretionary power or not.
36. Although this offer was made only in the context of the proceedings before the ARC, it is an undisputed fact that the Bank has offered to pay a significant proportion of the Appellant’s legal fees - £6,000 (inclusive of VAT). The Tribunal considers that, in the circumstances of the present case, the offer of £6,000 (inclusive of VAT) is not unreasonable and does not constitute an abuse of the Bank’s discretionary power. As a result, the decision by the President that the Appellant is “invited to approach the Employee relations team in the Human Resources Department to obtain such reimbursement within the limits mentioned by the Bank in these proceeding” is not affected.
37. In addition, the Tribunal shares the Bank’s position that the Appellant’s claim for a payment “equivalent to three times her currant [sic] annual salary” is patently baseless. The Appellant’s argument seems to be that, due to not being paid £9,840 plus 4.25% to date in legal fees, she has experienced harm and suffering (unevidenced) to the tune of three times her annual salary. This can only be rejected.
38. As indicated in the President’s Decision of 9 February 2026 “the duration of the process was longer than ideal”. The Tribunal also finds it regrettable that the proceedings following the Appellant’s initial submission of her misconduct complaint and the issuance of the decision to close the matter lasted nine months. Nevertheless, beyond the question of the general principle that it is possible to seek reimbursement, within reasonable limits, of legal

fees in a claim, for a subsequent claim for compensation for moral damages, the claimant bears the burden of justifying such a claim in this situation, since in this case no specific supporting documents substantiate the claim, particularly unusual given the size of the amount sought (three years' salary).

39. In light of the foregoing, the Tribunal upholds the admissibility of the Appellant's motion to claim legal fees in connection with expenses incurred in the preparation and submission of RRAD1 and concludes that the Decision by the Bank's President to maintain her offer to pay £6,000 (inclusive of VAT), a significant amount compared to the claim of £9,840 (inclusive of VAT) for legal fees related to RRAD1 of 18 February 2025, is a discretionary decision that remains within the bounds of its authority without being deemed abusive.
40. Accordingly, the Tribunal sees no reason to decide to annul or modify the President's offer to the Appellant "to reimburse reasonable legal fees directly associated with the drafting and submission of [the Appellant's] request for review dated 17 February 2025. [The Appellant] is invited to approach the Employee Relations team in the Human resources department to obtain such reimbursement within the limits mentioned by the Bank in these proceedings".

IV. DECISION

41. The Tribunal confirms, for the record, that it has no objection to the anonymisation of its final Decision (see §7 of the Suspension Decision).
42. With regard to the Appellant's latest request concerning the email of 28 October 2025, the Tribunal, in its Suspension Decision, has already ruled on this private and unsolicited email, which cannot and will not form part of the case file.
43. The Tribunal upholds the admissibility of the Appeal but rejects the Appeal on the merits in its entirety.



Marielle Cohen-Branche

(Chair of the Panel)