

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

Case No. 2025/AT/02

Appellant

vs.

European Bank for Reconstruction and Development

DECISION

by a Panel of the Administrative Tribunal comprised of

Thomas Laker (Chair)

Chris de Cooker

Joan Powers

12 January 2026

I. Introduction

1. In the present Appeal, the Appellant contests the decision of the Ethics Committee (“EC”) of the European Bank for Reconstruction and Development (“Bank”) determining that the Appellant’s complaint of harassment does not meet the threshold for referral to further investigation and, therefore, closing the matter without further action.

II. Facts and procedural background

2. The Appellant joined the Bank in 2012. In 2017, she was appointed as an Executive Assistant to a Member State’s Constituency Office. In 2020, a new Board Director of this Constituency Office was appointed. The working relationship between the Appellant and the supervising Board Director deteriorated continuously, in particular after the Appellant’s return from her first maternity leave (June 2020 to February 2021).

3. While on her second maternity leave (June to November 2023), a transfer of the Appellant to a different position was discussed. Despite the Appellant’s disagreement, this transfer was implemented by decision of 28 March 2024. The Appellant submitted a request for review of this administrative decision, which was denied by the President of the Bank as it was filed too late and therefore time-barred. The Tribunal, in its decision of 19 February 2025 (Case no. 2024-AT-16), upheld the President’s Decision.

4. On 30 April 2025, the Appellant submitted a complaint of suspected misconduct to the EC, alleging inappropriate behaviour of the Board Director in various respects which will be addressed in detail below. On 8 May 2025, the EC appointed the Office of the Chief Compliance Officer (“OCCO”) to undertake an Initial Inquiry in relation to this matter.

5. In the course of its inquiry, OCCO took note of documentary evidence and interviewed the Appellant as well as four witnesses. On 11 June 2025, it rendered its 53-page report, plus 300 pages of documents. The report concluded that the allegations raised by the Appellant did not meet the necessary threshold for a Formal Investigation. Therefore, OCCO recommended that the matter be closed without further action.

6. By letter dated 30 June 2025, the Chair of the EC informed the Appellant of the EC's decision to follow OCCO's recommendation. This is the contested decision. On more than four pages, the letter summarises the legal background, the incidents examined and the findings in a detailed way. It concluded with an offer to the Appellant to contact OCCO should she have any questions regarding this communication or the procedures followed.

7. On 10 July 2025, the Appellant met with the OCCO officials who had conducted the Initial Inquiry. About 80 minutes after the start of the meeting, the Appellant wrote an email to the OCCO officials apologising for having "left quite sharply."

8. On 23 September 2025, the present Appeal was filed.

9. Upon the Tribunal's request, the Bank provided the Initial Inquiry Report ("IR") and its annexes to the Tribunal on a strictly confidential basis. The Appellant has asked for access to these documents.

III. The Appellant's position

10. In the Appellant's view, her direct appeal to the Tribunal is admissible. As no appropriate channels of administrative review of decisions taken by the EC are included in the Bank's internal justice system, the Tribunal is the only body to hear an appeal against administrative decisions taken by the EC. In addition, the Appellant notes that, under international administrative law, decisions taken to close staff complaints of misconduct, or decisions taken to conclude investigations or disciplinary processes with no findings of misconduct, are acknowledged to be administrative decisions in respect of a complainant. This is recognised within the Bank's legal framework dealing with the handling of complaints where the subject of the complaint is also a staff member. When Board Committees like the EC are tasked with taking individual decisions in the administration of staff, there must be recourse to ensure discretion is not abused.

11. Regarding the merits, the Appellant complains about a lack of due process, and criticises the findings on the allegations she made.

12. The Appellant contends that it would have been critical to interview more witnesses. Further, in her view, there was no transparency regarding which individuals were questioned,

making it impossible to assess whether the fact-finding process was robust or impartial. She had no access to the IR and is unable to meaningfully challenge the outcome. Because of the lack of thoroughness, due process, and transparency, the EC’s decision should be set aside.

13. Further, the Appellant asserts that the findings of the IR aim to “minimise [her] concerns to a series of unconnected incidents rather than properly taking into consideration a pattern of escalating inappropriate behaviour”. In the Appellant’s view, had the IR assessed the matter “holistically and in their proper context, in particular taking into account the serious power dynamics”, at a minimum a Formal Investigation would have been recommended to the EC. The Appellant also raises concerns regarding specific incidents, which will be addressed below.

14. The Appellant requests the Tribunal to rescind the EC’s decision and “remit the case so that it can proceed to Formal Investigation”. Also, the Appellant requests anonymity, including her roles within the Bank.

IV. The Respondent’s position

15. The Bank has no objection to the Appellant’s position that the Tribunal has jurisdiction to review the EC’s decision and notes that the Appeal has been submitted within the applicable time-limit of sixty days from the date the Appellant was notified of the contested decision.

16. The Bank submits that the contested decision was taken in accordance with the applicable law and was made on a reasonable and observable basis. In its view, the available records and evidence demonstrate that the Bank took prompt and appropriate action for the review of the Appellant’s allegations in accordance with the applicable rules and procedures.

17. The Bank further maintains that the Initial Inquiry complied with due process requirements. The Appellant was provided with an opportunity to be heard. She was interviewed by OCCO and had the opportunity to provide further clarifications and information she deemed appropriate to the Inquiry Officers, which were duly taken into account. The extent of the evidence and information collected by OCCO is reasonable and proportionate to the limited scope and the nature of the Initial Inquiry, which is to make a threshold assessment of the credibility, verifiability and gravity of the alleged misconduct. The investigative process and the findings in the IR were lawful, rational,

based on the available evidence, procedurally correct and proportionate to the nature and the scope of an initial inquiry.

18. Regarding the Appellant's disclosure contentions, the Bank notes that the Appellant was promptly provided with information regarding the outcome of the EC's review as well as with a summary of the findings in the IR, consistent with the approach followed by the Bank in other similar complaints pursuant to the applicable confidentiality requirements. The EC Chair's letter provided the Appellant with a summary of the IR findings and recommendations in respect of the allegations. The Chair's letter also included a summary of OCCO's findings in respect of all the examples of the behaviour mentioned in the allegations made by the Appellant.

19. The Bank requests the Tribunal to uphold the EC's decision to close the matter and to dismiss the Appeal in its entirety.

V. The applicable law

20. Board Code of Conduct

General Standards of Conduct

Rule 1

Board Officials shall observe the highest standards of integrity and ethical conduct and shall act with honesty and propriety. Their personal and professional conduct should, at all times, command respect and confidence in their status as officials of an international organisation and should contribute to the good governance of the Bank.

Duties of Board Officials

Rule 2

(a) Board Officials shall discharge their duties to the Bank with the interests and objectives of the Bank in view and consistent with their obligations to their Authorities. They shall take note of the requirement in the Bank's By-laws that they devote to the activities of the Bank such time and attention as the interests of the institution may require.

(b) Recognising that Bank Personnel owe their duty entirely to the Bank in the discharge of their offices and that Bank Personnel in their decisions have an obligation to weigh considerations impartially, Board Officials shall take note of the requirement in Article 32.3 of the Agreement Establishing the Bank that all members respect the international

character of this duty. Consistent with this requirement, Board Officials shall refrain from exerting Undue Influence on Bank Personnel.

(c) Board Officials shall perform their official duties in a manner that preserves and enhances public confidence in their integrity and the integrity of the Bank.

(d) In their dealings with colleagues and Bank staff, Board Officials must show respect and tolerance for varied cultures, beliefs and backgrounds. They must avoid behaviour that constitutes harassment, sexual harassment, bullying or abuse of authority, or that could be perceived by others as such.

Ethics Committee

Rule 14

The Ethics Committee is established by the Board of Governors: it shall be composed and shall operate in accordance with the provisions of this Rule 14, other applicable provisions of this Code and the Code of Conduct for Bank Personnel, and the Rules of Procedure for the Ethics Committee.

(b) The Ethics Committee shall:

(v) carry out the functions provided for in this Code and the Code of Conduct for Bank Personnel relative to cases of misconduct and alleged misconduct, as applicable, including without limitation approval of interim Precautionary Measures with respect to Covered Persons who are Subjects of misconduct proceedings;

Misconduct Proceedings

Rule 15

This Code sets out rules with respect to the treatment of allegations of misconduct in respect of Board Officials.

Initial Inquiry

Rule 16

(a) Criteria

The Ethics Committee shall review reports of suspected misconduct in respect of Board Officials and conduct an initial inquiry pursuant to this Rule. The purpose of the Initial Inquiry shall be to determine whether a Formal Investigation is warranted, based on the following criteria:

(i) credibility, i.e., that the allegation received, when considered together with any other information obtained during the Initial Inquiry, is sufficiently plausible;

- (ii) verifiability, i.e., that there is likely availability of relevant evidence if an investigation were to be undertaken;
- (iii) gravity, i.e., that the alleged misconduct is sufficiently serious, whether of itself or in the context of the Subject's role;
- (iv) whether the alleged misconduct is within the mandate of the Ethics Committee; and
- (v) whether the allegations are appropriate for disciplinary review.

(b) Scope of Initial Inquiry

In determining whether a Formal Investigation is warranted, the Ethics Committee may gather and review evidence, obtain and examine documents and electronic data, interview Bank Personnel, Board Officials and external persons, and obtain information beyond that included in the allegations. The Ethics Committee shall designate a person or persons internal or external to the Bank to assist in carrying out these tasks. Any such tasks will be conducted within reasonable limits, as befits a limited initial inquiry.

(c) Initial Determination

- (i) If the Ethics Committee determines based on the criteria set out in Rule 16(a) that the allegations do not warrant a Formal Investigation, the matter shall be terminated.
- (ii) If the Ethics Committee determines based on the criteria set out in Rule 16(a) that the allegations warrant a Formal Investigation, then the Ethics Committee shall commence a Formal Investigation.

21. Code of Conduct for EBRD Personnel

Guidance Note for Bank Personnel – Rule 2

Section IV, paragraph 3.1 - Definitions

(1) “Harassment” can take any form: words, gestures, or other actions that abuse, demean, intimidate, belittle or cause an intimidating, hostile or offensive work environment. Harassment may be based on any grounds, including, without limitation: race, religion, colour, creed, ethnic origin, physical attributes, gender or sexual orientation.

(3) “Bullying” is conduct (which may include intimidation, threats, blackmail or coercion), whether verbal, psychological or physical, in the work environment or in connection with the work of Bank Personnel, that has the effect of humiliating, belittling, offending, intimidating or discriminating against such Bank Personnel or Service Providers and which causes, has caused, or that might reasonably be expected or be perceived to cause offence or humiliation to others and/or creates a hostile or offensive work environment.

Section IV, paragraph 3.2 - General Guidance

(1) The Bank is committed to promoting a work environment free of Harassment, Sexual Harassment, Bullying or Abuse of Authority. Rule 1 of the Staff Code sets the overall standard and requires Bank Personnel to act at all times with integrity, honesty and propriety and to conduct themselves in a manner that befits their status as officials of an international organisation and in a manner which does not bring the Bank into disrepute. Rule 2(d) of the Staff Code...[requires] that Bank Personnel show respect and tolerance for varied cultures, beliefs and backgrounds and refrain from behaviour that could amount to Harassment, including Sexual Harassment, Bullying or Abuse of Authority. Bank Personnel must always be respectful and polite when interacting with others.

(2) In the multinational, multicultural environment of the Bank, actions which might be regarded as acceptable in one culture may give offence in another. Individual differences may also create ambiguities as to whether certain conduct is appropriate, as behaviour that offends some people may not offend others. Any behaviour that is reasonably perceived to be offensive or intimidating by other Bank Personnel, regardless of the intention of the initiator, must be avoided. All Bank Personnel are responsible for maintaining a harmonious working environment by behaving in a manner that is free of intimidation, hostility or offence.

(3) Harassment, Sexual Harassment, Bullying and Abuse of Authority often arise from a course of conduct, but may also arise from a single incident, if it is sufficiently severe. This conduct does not necessarily need to occur face to face. It may occur virtually through other means such as by telephone or electronically by email, by text messaging, using a web application or by social media. Bank Personnel should not engage in this conduct directly, either acting alone or with others, or indirectly by way of acting through, or influencing the conduct of, others. Bank Personnel must be aware that it is how the conduct is received, not the intention of the person saying the words or engaging in the conduct, that is important. Bank Personnel must always consider carefully the potential impact and reception of their behaviour and words.

(4) While adhering to these requirements, managers and supervisors are expected to give frank and constructive feedback to Bank Personnel they supervise and/or manage, and to take appropriate corrective action, including by giving firm managerial direction, whenever warranted. This will involve expressing views concerning the work, performance or conduct of Bank Personnel. The mere expression of a view by a supervisor or by a manager regarding work performance, conduct or related issues within a supervisory relationship, or the giving of firm managerial direction, shall not of itself be considered as Harassment, Sexual Harassment, Bullying or Abuse of Authority. This is the case, notwithstanding that the addressee of those views may disagree with them or that they may constitute or be regarded as admonishment or criticism. Feedback should always be given respectfully and in a reasonable and constructive manner and not done to demean Bank Personnel.

22. Procedure on Leave

Section IV, paragraph 1 (a)

Annual Leave may be taken by a Staff Member when their line manager has given advance authorisation. Authorisation of Annual Leave is subject to the operational needs of the Organisational Unit.

VI. The Tribunal's evaluation

Preliminary matters

Anonymity

23. The Appellant requests to remain anonymous, and the Bank does not oppose this request. The Tribunal recalls its previous observations that it is inherent in an appeal process that certain facts and opinions become known, both inside and outside the Bank (cf. EBRDAT Case No. 2019/AT/08, paragraph 41). This being said, it is indeed the Tribunal's established practice to limit to the maximum extent possible, *inter alia*, the exposure of names, facts or descriptions that may identify participants in the process. However, an absolute guarantee cannot be given. Under these circumstances, the Tribunal grants the anonymity requested by the Appellant.

Oral hearing

24. Noting that neither party has requested oral hearings, and bearing in mind Section IV, paragraph 7.02(a) of the Directive on the Appeals Process ("Appeals Directive"), the Tribunal does not consider that there are exceptional circumstances present in this case that would warrant holding oral hearings *sua sponte*.

Admissibility

Ratione materiae

25. The Tribunal takes note that the Bank's internal law does not explicitly address decisions issued by the EC, which is a body of the Bank.

26. Pursuant to Section IV paragraph 2.01 (b) of the Appeals Directive, a staff member may appeal "an Administrative Decision which allegedly alters, in a material adverse manner, or

allegedly is in breach of, their Terms and Conditions of Employment in force immediately before the Administrative Decision was taken”. Section IV, paragraph 2 of the Directive on General Provisions and Glossary of Terms for the staff Handbook defines an “Administrative Decision” as “a decision taken by the Bank in the administration of staff of the Bank which produces direct legal consequences to the legal order and affects one or more staff members’ rights and obligations and complies with the provisions of the Directive on the Administrative Review Process”. Section IV, paragraph 2 of the Directive on General Provisions and Glossary of Terms for the Staff Handbook also includes a definition of “Individual Decision”, which means “an Administrative Decision that affects the terms and conditions of employment of only one staff member of the Bank”. Therefore, the Tribunal considers that the EC’s decision constitutes an Administrative Decision that may be challenged before the Tribunal.

27. While Section IV, paragraph 3 (c) of the Directive on the Administrative Review Process does not expressly list decisions issued by the EC in the categories of the administrative decisions that may be directly appealed before the Tribunal, the Bank’s President does not have the authority to review a decision of the EC – a committee established by the Board of Governors of the Bank and composed of Board Directors. Considering the President’s lack of competence to carry out an Administrative Review, submitting the Appeal directly to the Tribunal is the only appropriate avenue for the Appellant to challenge the EC’s decision.

Ratione temporis

28. Given that a challenge to the EC’s decision is directly appealable to the Tribunal, the time-limits for the submission of an appeal set out in section IV. 4.03 (a) of the Appeals Directive are applicable. The Tribunal notes that the Appeal has been submitted within the respective sixty-day time limit.

29. It follows from the above that the Appeal is admissible.

Merits

Due Process

30. The Appellant's complaint that due process was not respected mainly comprises two aspects. On the one hand, the Appellant alleges that the Initial Inquiry lacked thoroughness, and, on the other hand, she is dissatisfied that the IR was not disclosed to her.

31. Pursuant to Rule 16 (b) of the Code of Conduct for the Officials of the Board of Directors ("Board Conduct Code") on the scope of the Initial Inquiry, the Ethics Committee may gather and review evidence, obtain and examine documents and electronic data, interview Bank Personnel, Board Officials and external persons, and obtain information beyond that included in the allegations. Also, the Ethics Committee shall designate a person or persons internal or external to the Bank to assist in carrying out these tasks. The Tribunal notes that, in accordance with these provisions, the Ethics Committee asked OCCO to carry out the fact finding and received a detailed report of more than 50 pages gathered with and based on the approved means, documented in some 300 pages of evidence. It was within OCCO's discretion to decide which documents to examine and whom to interview. There are no indications that the limits of discretion were abused or exceeded. The Appellant, having been duly interviewed by OCCO, has no right to insist that specific witnesses be heard.

32. The Board Conduct Code does not provide for disclosure of initial inquiry reports to complainants. However, without any knowledge of the findings in such reports, it would be unacceptably difficult for any complainant to challenge the decision to close a case. The Tribunal reiterates that, in the present case, the contested decision itself summarises the content of the IR in a detailed way. It addresses all the allegations in turn and compares them to the findings of the IR as well as to the legal requirements of the Board Conduct Code, thus enabling the Appellant to make her case.

33. In such a situation, it remains for the Tribunal to assess whether the contested decision itself adequately reflects the confidential findings of the IR. Therefore, the Bank was requested to submit an unredacted version of the confidential IR to the Tribunal *in camera*. Having carefully studied all documents, the Tribunal notes that the contested decision includes a list of sources of evidence and a summary of the incidents examined and findings. This summary properly addresses

the allegations raised by the Appellant one by one, based on the documentary evidence collected and presented in the IR and its annexes. The Tribunal confirms that the contested decision is fully in line with the findings of the IR. It therefore does not accept the Appellant's request to be provided with the unredacted IR.

34. Finally, it is recalled that, as explicitly mentioned in the contested decision, the Appellant was offered the chance to contact the authors of the IR should she have questions regarding the decision or require clarification on the procedure. The Appellant made use of this offer. However, she apparently left the meeting of 10 July 2025 abruptly, since, in her own words, she "left quite sharply", thus depriving herself of an opportunity to obtain more information.

35. Considering these circumstances, the Appellant's due process rights were sufficiently respected.

Findings on the allegations

36. Regarding the specific allegations, the Tribunal notes that all respective incidents have already been pointed out in the initial complaint and are fully addressed by the contested decision.

37. Further, as a general observation, the Tribunal recalls the Bank's Code of Conduct for EBRD Personnel (Guidance Note for Bank Personnel – Rule 2 - "General Guidance" at paragraph 3.2 (4)), pursuant to which the "mere expression of a view by a supervisor or by a manager regarding work performance, conduct or related issues within a supervisory relationship, or the giving of firm managerial direction, shall not of itself be considered as Harassment, Sexual Harassment, Bullying or Abuse of Authority. This is the case, notwithstanding that the addressee of those views may disagree with them or that they may constitute or be regarded as admonishment or criticism."

38. It transpires from the file that, indeed, the working relationship between the Appellant and her supervisor deteriorated after the Appellant's return from her first maternity leave. The subsequent performance appraisals indicate a decline in the Appellant's performance. In contrast, although the Appellant may have sincerely believed that she was mistreated by her supervisor, none of the incidents presented by the Appellant demonstrate bias or inappropriate behaviour on the part of her supervisor.

39. For example, the email exchanges between the Appellant and her supervisor do not show an “excessively critical and authoritarian tone”, as alleged by the Appellant. In fact, it was the Appellant who occasionally used a confrontational tone.

40. Further, the application of the in-office work requirement to the Appellant was based on the nature of her duties, and the Tribunal considers that she was not “subject to micro-management and an overly strict approach”. Ability to work remotely is not an entitlement, and staff members are required to be present at least 50 percent of the time in their office. The type of work carried out by the Appellant as the Board Director’s Executive Assistant impacts the need for presence in person, and the Board Director’s requests regarding the Appellant’s presence were not unreasonable.

41. The same applies to the denial of annual leave. The Appellant seems to overlook that, pursuant to the provisions of the Procedure on Leave, authorisation of annual leave is “subject to the operational needs of the Organisational Unit” which were to be defined by the Board Director.

42. Moreover, the denial of participation in a language course that had no relation to the Appellant’s office work does not amount to inappropriate behaviour or an abuse of authority.

43. Regarding the Board Director’s requests for minor personal assistance, the Tribunal notes that the Appellant’s job description included such support, which was limited in its nature.

44. Regarding an alleged incident with the Board Director’s son, there are no clear facts available.

45. Finally, the evidentiary record shows that the Board Director played only a limited role in the Appellant’s transfer, which was managed by the Human Resources and Operational Development Department, and the IR found no evidence of improper motivation or process manipulation. Taking into account the breakdown of the working relationship between the Appellant and her supervisor as well as the operational needs of the office, the transfer decision was reasonable and cannot be regarded as an abuse of authority.

46. In short, given the totality of the circumstances, the Tribunal concludes that the EC’s decision to close the matter was made on a reasonable and observable basis and should be upheld.

VII. Costs

47. Section IV, paragraph 8.06 (a) of the Appeals Directive provides:

If it upholds an Appeal, in whole or in part, the Tribunal may order that the respondent reimburse the appellant for such reasonable expenses, including reasonable legal costs, the appellant has incurred in presenting the Appeal. Exceptionally, the Tribunal may order that the respondent pay all or some part of the appellant's legal costs where the Appeal has not succeeded.

48. As the Appellant was not represented by counsel and has not requested the Tribunal to provide reimbursement, it is not necessary to consider whether the Respondent should bear the Appellant's legal costs.

VIII. Decision

49. The Tribunal rejects the Appeal in its entirety.

12 January 2026

For the Administrative Tribunal



Thomas Laker

Chair of the Panel