

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

Case Nos. 2025/AT/03 and 2025/AT/04

Appellant

vs.

European Bank for Reconstruction and Development

DECISION

by a Panel of the Administrative Tribunal comprised of:

Maria Vicien-Milburn (Chair)

Chris de Cooker

Joan Powers

1 May 2026

I INTRODUCTION

1. The Appellant, a former Principal Manager within the European Bank for Reconstruction and Development (the “Bank”), challenges two decisions by the President of the Bank (the “President”). In EBRDAT 2025/AT/03 (ARC81/2025), the Appellant challenges the President’s Decision of 8 July 2025 upholding the decision by the Office of the Chief Compliance Officer (“OCCO”) not to open a formal investigation into allegations of misconduct against the Appellant’s Line Manager and to close the initial inquiry with no adverse finding (the “CDRP Decision”). In EBRDAT 2025/AT/04 (ARC84/2025), the Appellant challenges the President’s Decision of 8 August 2025 upholding the decision not to renew the Appellant’s Fixed-Term appointment beyond its expiry date of 3 January 2025 (the “Non-Renewal Decision”). Both President’s Decisions endorsed the recommendations of the Administrative Review Committee (the “ARC”).

II FACTS AND PROCEDURAL HISTORY

2. The Appellant joined the Bank on 4 January 2023 as a Principal Manager on a two-year fixed-term appointment expiring on 3 January 2025. Her Line Manager was her direct supervisor within the department.
3. The Appellant’s role involved the coordination, origination, structuring and design of projects receiving external donor support from multilateral climate and environmental funds. Prior to joining the Bank, the Appellant had approximately fourteen years of experience in climate and environmental finance, including technical roles at a United Nations specialised agency, and at secretariats of multilateral climate and environmental funds.
4. According to the record, during the Mid-Year Review process in July 2023, a disagreement arose between the Appellant and her Line Manager over the assessment of her performance. The Appellant asserted that she was “being set to fail” and that her objectives did not take account of the responsibilities of others. The Line Manager responded by revising some objectives and providing feedback regarding the Appellant’s communication, which he characterized as “at times condescending,” and working style, which he stated *inter alia* should be “more solution-

oriented.” The Line Manager first contacted the HR People Solutions and Advisory team during this period to discuss concerns about the Appellant’s performance.

5. In January 2024, the Appellant passed her one-year probation and commenced her second year of service. On 27 February 2024, the 2023 year-end performance appraisal took place; the Appellant was rated “Performing as required” and received a performance-based compensation.
6. Also according to the record, in March and April 2024, the Appellant and her Line Manager engaged in discussions concerning the 2024 performance objectives. The Appellant considered the proposed objectives unreasonable and representing an unrealistic workload. The Line Manager finalised the objectives, having incorporated some but not all of the Appellant’s proposed revisions. The Appellant filed written objections on 15 April 2024.
7. On 3 April 2024, the Appellant had met with the Ombuds and raised concerns about her Line Manager’s conduct. The Ombuds offered mediated resolution, which the Appellant declined for fear of retaliation.
8. On 16 April 2024, the Line Manager initiated a Substandard Performance Management Process (“SPMP”), on the basis of concerns regarding the Appellant’s performance. This was approximately six weeks after the Appellant received her “Performing as required” rating and performance-based compensation for the 2023 performance year.
9. On 30 May 2024, the Appellant met with a senior counsel in Employee Relations and People Solutions to discuss her concerns and receive advice. In May 2024, the Appellant’s psychotherapist, concerned about her deteriorating mental health, advised her to consult a medical doctor, who in turn advised her to take immediate medical leave.
10. On 17 June 2024, a Step 1 Review meeting of the SPMP process took place. By email of 20 June 2024, the Line Manager informed the Appellant that she was being moved to Step 2, provided feedback against each Performance Improvement Area, and set a date for final review on 19 July 2024. The Line Manager advised that if performance remained below required standards, he would consider recommending termination of employment on the grounds of substandard performance.

11. On 30 June 2024, the Appellant submitted a complaint of misconduct to OCCO, alleging intimidating and inappropriate behaviour by her Line Manager, including abuse of authority, harassment and bullying, a disrespectful work environment, and unjust placement on the SPMP. On the same date, she submitted detailed comments on the SPMP Step 2 assessment to her Line Manager, the Director, and HR.
12. On 1 July 2024, the Appellant took sick leave, and on 2 July 2024 was signed off by her doctor for medical leave due to work-related stress.
13. On 19 July 2024, the Chief Compliance Officer acknowledged receipt of the Appellant's report of alleged misconduct. On 22 July 2024, an Inquiry Officer was appointed. In August 2024, whilst still on medical leave, the Appellant met with the Inquiry Officer on three occasions.
14. According to the testimony of the HR representative before the ARC, in September 2024, the Line Manager informed HR that the Appellant's position was no longer required and that a new position would be created. The Bank acknowledges that the Appellant's position had been renewed in mid-2024 through the donor-funded post funding review, on the basis that the scope of the role would be adjusted.
15. On 11 October 2024, the Office of the Chief Compliance Officer informed the Appellant that, upon completion of the initial inquiry, it had decided that the evidence did not support the allegations of misconduct and that the matter would be closed with no adverse finding against the Line Manager.
16. On 22 November 2024, the Appellant informed her Line Manager by email of her plan to return from medical leave on 6 December 2024. Four days later, on 26 November 2024, the Line Manager informed the Appellant that her contract would not be renewed beyond its expiry date, citing "evolving business reasons and operational needs." In the same communication, the Line Manager stated that the decision was made "on the basis of business/operational requirements only," but added that the incomplete SPMP "would have been relevant to our considerations regarding any possible extension of your FTC, absent the business/operational requirements referred to above." The Line Manager also waived the Appellant's return to the office for the remainder of her contract.

17. On 30 November 2024, the Appellant requested the Managing Director, Human Resources and Organisational Development to review the Non-Renewal Decision. On 2 January 2025, the Managing Director upheld the decision and awarded an additional 12 weeks' base salary as a goodwill gesture, having found the decision "grounded on a sound and genuine business/operational reason."
18. On 6 December 2024, the Appellant submitted a request for review by the President of the CDRP Decision. The President referred the matter to the ARC on 2 January 2025, which became Case ARC81/2025. On 16 February 2025, the Appellant submitted a request for review by the President of the Non-Renewal Decision, which became Case ARC84/2025.
19. The Appellant's employment with the Bank ended on 3 January 2025.
20. The ARC joined the two cases on 10 March 2025 and held a hearing on 9 May 2025. The ARC heard testimony from the Appellant, the Line Manager, the Inquiry Officer, a representative of HR, and four witnesses nominated by the Appellant from different departments and the banking department.
21. On 24 June 2025, the ARC issued its Report on ARC81/2025. The ARC concluded that there was no evidence of harassment or bullying, that the Appellant's complaints were "more based on perceptions rather than facts," and that the disagreements between the Appellant and her Line Manager were "typical work-related interactions" that did not escalate to the level of harassment or bullying. The ARC found the Inquiry Officer's testimony to be "very detailed, clear, demonstrating frankness and good faith." The Appellant also sought to introduce voice recordings of workplace meetings she had made without the knowledge or consent of the other participant; the ARC declined to admit them.
22. On 8 July 2025, the President issued her Decision in Case ARC81/2025, endorsing the ARC's findings and dismissing the Appellant's request for review.
23. On 11 July 2025, the ARC issued its Report on ARC84/2025. The ARC concluded that the Non-Renewal Decision was "lawful and in accordance, not only with the Bank's legal framework but, also in line with the principles and practices of other twin organizations." In assessing the evidence, the ARC took "mainly into consideration the testimony of the staff member, the line manager ... and [the HR representative], because all other people interviewed did not appear to

have sound and direct knowledge of the Appellant’s relationship with her line manager, nor did they kn[o]w anything about the restructuring exercise that led to her non-renewal.” The ARC found that the Appellant had failed to discharge her burden of proving improper motivation by clear and convincing evidence.

24. On 8 August 2025, the President issued her Decision in Case ARC84/2025, endorsing the ARC’s findings and dismissing the Appellant’s request for review.

III FINDINGS OF FACT AND RECOMMENDATIONS OF THE ARC

Case ARC81/2025 (EBRDAT 2025/AT/03 (CDRP Decision))

25. The ARC’s Summary of Findings in Case 81/2025 provides as follows:

“Summary of Findings Case 81/2025

In this case, the Staff Member filed a request for administrative review of the decision of the Office of the Chief Compliance Officer (‘OCCO’) determining that, upon completion of the initial inquiry into the Staff Member’s allegations against the line manager, the matter would be closed, with no adverse finding against the line manager (‘Administrative Decision’) and no investigation would be pursued.

In support of the request for administrative review, the Applicant argues that he/she was subject to a continuous pattern of harassment and abuse of authority, that the line manager has failed to set realistic objectives, to provide guidance and support and was not able to resolve a conflict with another staff member, causing mental stress and anxiety.

The Staff member has alleged SPMP was a retaliatory action because he/she has complained about the objectives for and that OCCO has failed to understand the nature of the line manager actions, as it did not understand the ‘hidden’ bullying.

The Bank has pointed out that the case involves performance issues and the complaint made by the Staff Member does not indicate any pattern of harassment, bullying or abuse of authority and, therefore, the decision to close the complaint without further action was reasonable and lawful.

The ARC had to decide whether said decision was lawful and whether to accept a clandestine audio recording of meetings as evidence.

In this case, the role of the ARC was not to perform a de novo assessment but rather, to evaluate if the decision not to open an investigation on the harassment complaint was a proper exercise of administrative discretion, if legal procedures were followed and if the evidence provided for by the complainant was properly reviewed and taken into consideration.

It is the internal policy of the Bank and its regulatory framework that provides guidance to OCCO in relation to definitions and scope of the preliminary enquiry for these complaints.

In addition, it is very difficult if not even impossible to ‘retroactively assess’ all the dimensions of personal and work-related interactions between supervisor and supervisee throughout a long period of time without specific examples and evidence being provided by the complainant.

In the case at hand, the ARC found that the Applicant’s struggles were not related to technical expertise nor skills but rather to the fact that she/he didn’t adapt well to the workload, work rhythm and the level of autonomy the role required.

In this regard the ARC also notes that the mandate of an international finance institution and the one of a humanitarian organization (staff member’s professional background) are not similar, which may partially explain why the Staff Member, despite all her/his technical knowledge, did not ‘fit in’ the team.

Moreover, as per ILOAT jurisprudence not all actions or behaviours that are perceived by an individual as harassment will necessarily constitute harassment.

The normal exercise of supervisory responsibility and the provision of negative feedback intended to be constructive in the context of performance appraisals would not normally be regarded as constituting harassment.

Also, in relation to the audio recordings the ARC stated that no universally accepted practice or legal principle against the admissibility of secret recordings of discussions

so long as the information sought to be admitted is relevant and probative of the issues to be determined.

The ARC did not consider the evidence provided by the recording was relevant to the issues at stake since the ARC had other pieces of evidence at its disposal.

The ARC concluded that, illegally obtained audio recordings are inadmissible due to the violation of fundamental rights and ethical considerations and the potential negative impact it may have within the Bank's employment relationships.”

Case ARC84/2025 (EBRDAT 2025/AT/04 (Non-Renewal Decision))

26. The ARC's Summary of Findings in Case 84/2025 provides as follows:

“Summary of findings Case 84/2025

The Staff Member filed a request for administrative review in relation to the Bank's decision not to renew her 2 year fixed term appointment. The staff member claims this decision was made arbitrarily, given a clear ongoing need for her role, and to have been improperly motivated, being tainted by bias against her, therefore amounting to an abuse of managerial discretion.

The Bank argued that the non renewal was not based on erroneous facts, as it took into account all essential facts and was unimpaired by procedural defect.

The ARC recalls that it is incumbent on the Applicant to allege and to prove the reasons to contest the administrative decision. An international organization necessarily has power to restructure some or all of its departments or units, including the abolition of posts.

However, even in a restructuring exercise, the Administration has the duty to act fairly, justly and transparently in dealing with staff members. There exists a presumption of regularity in respect of administrative acts, with it falling to the employee to rebut that presumption.

In the case at hand, there is no evidence of such a promise being made to the staff member and, thus, the ARC finds the contested decision to be lawful and in accordance,

not only with the Bank's legal framework but, also in line with the principles and practices of other twin organizations.”

IV THE PRESIDENT'S ADMINISTRATIVE REVIEW DECISIONS

Case ARC81/2025 (EBRDAT 2025/AT/03 (CDRP Decision))

27. On 8 July 2025, the President issued her Decision in Case ARC81/2025, which provides, in relevant part, as follows:

“I have considered the findings set out in the Report and agree with the conclusions of the ARC that OCCO followed due process in its initial inquiry and acted lawfully and reasonably in closing the matter with no adverse finding against your line manager after such initial inquiry. Specifically, I share the ARC's assessment that the evidence available does not indicate any pattern of disrespectful or belittling conduct on the part of the line manager, nor any ill will, bias, or otherwise actions that the manager ought to have known would offend or humiliate you. Instead, such evidence speaks to differences in relation to task-related expectations and the management of your performance. Therefore, a formal investigation into your complaint was not warranted in the circumstances, as correctly concluded by OCCO.”

Case ARC84/2025 (EBRDAT 2025/AT/04 (Non-Renewal Decision))

28. On 8 August 2025, the President issued her Decision in Case ARC84/2025, which provides, in relevant part, as follows:

“I have considered the findings set out in the Report and agree with the conclusions of the ARC that the Bank has acted fairly, justly and transparently. Specifically, I share the ARC's assessment that the fixed term contracts do not carry any expectation of renewal, and the Bank has not made you any promise regarding the extension of your contract. As confirmed in the Report, given the significant differences in responsibilities between the abolished and the newly created position, you were reasonably deemed not to possess the required skill set to carry out the new role. Accordingly, I have taken the decision to uphold the Administrative Decision, and I consequently dismiss your requests for remedy in this matter.”

V THE APPELLANT'S POSITION

EBRDAT 2025/AT/03 (CDRP Decision)

29. The President's Decision was based on flawed findings of fact by the ARC that overlooked key material facts. In particular: (a) OCCO failed to follow due process by not interviewing witnesses, despite the Appellant's willingness to provide names, and the ARC's sanctioning of this failure constitutes manifest error; (b) OCCO and the ARC unduly narrowed the scope of their review, ignoring critical issues such as the misuse of the SPMP; (c) OCCO and the ARC failed to properly assess the available evidence attesting to misconduct, including documented instances of exclusion, unrealistic objectives, and dismissive behaviour; and (d) the Bank breached its duty of care by failing to act despite being informed of the Appellant's deteriorating health and excessive workload.
30. The Line Manager's conduct, viewed in aggregate, constituted a pattern of abuse of authority within the meaning of the Bank's Code of Conduct, and the SPMP was not used with the genuine intent to improve performance but rather was leveraged as a tool geared towards the Appellant's failure and burnout.

EBRDAT 2025/AT/04 (Non-Renewal Decision)

31. The Bank failed to demonstrate that a genuine restructuring necessitated the abolition of the Appellant's post. The Bank's justification is replete with inconsistencies, from the Line Manager's generic reference to "evolving business reasons," to the Managing Director's identification of a specific role with acknowledged "overlap," to the Bank's introduction before the Tribunal of a three-role framework not previously presented, without contemporaneous documentary support. The ARC should have required the Bank to produce restructuring documentation and should not have relied on the presumption of regularity where the evidence was exclusively in the Bank's possession.
32. The Non-Renewal Decision was opportunistic and driven by personal bias, pointing to the timing of the decision, communicated four days after the Appellant announced her return from medical leave, while the SPMP remained uncompleted, and while her OCCO complaint was recent, and to the substantial overlap between the original job description and the duties described for the replacement positions.

33. The Appellant's fourteen years of experience in climate and environmental finance and the fact that her original job description included "identifying and designing innovative reimbursable or unfunded financial instruments, business models and pioneering financial structures (first loss equity, guarantees, bonds, etc.)" contradict the Bank's assertion that she lacked the skills for the redesigned role. Professional references from senior supervisors at a United Nations specialised agency and at another international organisation confirm her experience in the design of complex, multi-disciplinary financial proposals.

VI THE RESPONDENT'S POSITION

EBRDAT 2025/AT/03 (CDRP Decision)

34. The President's Decision was lawful, reasonable, and procedurally fair. OCCO conducted a thorough initial inquiry in compliance with the CDRPs, interviewing the Appellant on three occasions and reviewing extensive documentation. Witness interviews are discretionary under the CDRPs and were unnecessary given the absence of specific incidents or contemporaneous notes of misconduct. The ARC reviewed the evidence, interviewed witnesses, and concluded that the allegations did not meet the legal threshold. The SPMP was a legitimate managerial tool addressing documented performance concerns, initiated on the basis of concerns that predated the Appellant's whistleblowing complaint.

35. The Appellant's allegations were based on perception and speculation rather than fact, and she failed to provide clear and convincing evidence to displace the presumption of regularity. The remedies sought are excessive and disproportionate.

36. The Bank submits that the OCCO Initial Inquiry Report, which it transmitted to the Tribunal at the Tribunal's request, should be reviewed *in camera*.

EBRDAT 2025/AT/04 (Non-Renewal Decision)

37. The Non-Renewal Decision was based on legitimate business needs arising from the evolution of the team toward "blended finance" expertise. The Appellant's former role was abolished and replaced by a fundamentally different position requiring technical experience in structuring banking operations and designing innovative financial instruments that the Appellant did not possess.

38. The restructuring was genuine, was not taken in isolation by the Line Manager but was approved at Managing Director level, and the ARC conducted a thorough fact-finding process.
39. Fixed-Term appointments carry no expectation of renewal, and the Appellant failed to prove improper motivation. The remedies sought are excessive.

VII THE TRIBUNAL'S EVALUATION

1. JOINDER

40. The Appellant challenges two decisions by the President which stem from the same set of facts. The ARC joined the cases by Direction dated 10 March 2025. The Appellant consented to joinder, and the Bank has not objected. In the interest of procedural efficiency, and pursuant to Rule 7.03 of the Appeals Directive, the Tribunal orders the joinder of the two appeals and addresses them in a single Decision.

2. ORAL HEARING

41. Neither party has requested oral hearings or the production of documents. Noting this, and bearing in mind Section IV, paragraph 7.02(a) of the Appeals Directive, the Tribunal does not consider that there are exceptional circumstances present in this case that would warrant holding oral hearings *sua sponte*, and proceeds on the basis of the written record.

3. ANONYMITY

42. In both appeals, the Appellant has requested anonymity pursuant to Section IV, paragraph 9.03(c) of the Appeals Directive. The Bank does not oppose the request. The Tribunal recalls that it is inherent to 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 approach to limit to the maximum extent possible the exposure of names of staff members concerned or of facts that may identify them. An absolute guarantee can, however, not be given. Further, the names of staff members of the Bank, including the Line Manager, will not be made public by the Tribunal. In accordance with its established jurisprudence, the Tribunal grants the Appellant's request for anonymity as well as the Bank's request.

4. ADMISSIBILITY OF VOICE RECORDINGS AND MEDICAL DOCUMENTS

43. On 2 October 2025, the Tribunal Secretariat forwarded the Appellant's Statement of Appeal to the President, asking the Bank for its views on the Appellant's request "that (i) voice recordings are added to the case file and that (ii) the Tribunal accepts to review a number of additional medical documents *ex parte*, which are not in the possession of the Bank."

44. In a response dated 10 October 2025, the Bank supported the ARC's conclusions on the admissibility of the voice recordings and invited the Tribunal to agree that those conclusions were legally sound. The Bank submitted, *inter alia*, that:

"The Bank acknowledges that its internal law does not include an express prohibition with respect to secret recordings. However, as the World Bank Administrative Tribunal ('WBAT') has recognised, 'silence in the rules and policies regarding secret recording of conversations with other staff members does not necessarily make such recordings permissible.' (WBAT Decision No. 566, paragraph 36)."

"The Bank submits that there is a strong public policy argument justifying a general presumption against the admission of secret recording in proceedings. In the Bank's view, any such admission could inhibit a frank exchange of views amongst Bank personnel and/or could incentivise behaviour not conducive to the avoidance and resolution of workplace conflicts."

"The Bank therefore strongly supports the view of the ARC that secret recordings are 'to be strongly discouraged' and that any admission should be strictly exceptional, taking into account considerations of necessity and equity."

"In this instance, there were no exceptional circumstances, and the admission of the secret recordings is not warranted."

45. With respect to the medical documents, the Bank submitted that, as a general principle of international administrative law, parties to a dispute ought to have access to the same information, and requested that the medical documents be scrutinised by the Tribunal for relevance and reliability.

46. By communication dated 20 October 2025, the Tribunal informed the Appellant as follows:

“The Tribunal has considered your request and has taken into account the Bank’s comments thereon, received on 10 October 2025. The Tribunal has consistently emphasised in its case law the importance accorded to due process rights of the parties, which include, inter alia, the right of both parties to have access to the same documentation introduced into the record of the case.”

“Accordingly, the Tribunal has determined that, in order to ensure due process, if you wish to introduce additional medical documents and voice recordings into the record, they must also be transmitted to the Bank.”

“The above is without prejudice to the Tribunal’s position in law on admissibility and/or merits.”

47. The Appellant duly confirmed that the additional medical documents and the voice recordings could be shared with the Tribunal and with the Bank.

48. The Tribunal reviewed the medical documents *in camera*. The Tribunal did not take the additional medical documents into account, as the evidence on the record was sufficient for it to make a determination on the questions of harm and causation. As regards the voice recordings, the Tribunal concurs in the ARC’s and the Bank’s view that secret recordings in the workplace are to be strongly discouraged. The Tribunal has reviewed the voice recordings *in camera* but will not rely on them in reaching its conclusions and will not take them into account. Accordingly, the Tribunal did not transmit them to the Bank.

5. APPLICABLE LAW

49. Rule 2(d) of the Code of Conduct for EBRD personnel provides:

“In their dealings with colleagues and Bank staff, Bank Personnel 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 harassment or bullying.”

50. The Guidance Note for Bank Personnel on Rule 2 defines “Abuse of Authority” as:

“the improper use by Bank Personnel of his/her Bank position of influence, power or authority by Bank Personnel against other Bank Personnel or Service Providers. Abuse

of Authority may occur: (i) by pressuring other Bank Personnel or Service Providers to take actions for one's personal benefit or to violate Bank rules or (ii) by unreasonably impeding the ability of other Bank Personnel or Service Providers to work effectively. It may also arise where there is an improper use of influence, power or authority to arbitrarily influence the career or employment conditions [...] of another Bank Personnel or Service Providers.”

51. The Guidance Note further provides that “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.”

52. Article 4 of the Directive on Conduct and Disciplinary Rules and Procedures (“CDRPs”) provides:

“4.01 After opening the Confidential File, the inquiry officer shall determine whether the conduct would amount to Misconduct for the purposes of these Rules and whether the matter may be properly investigated taking into account the reliability of the information received, the gravity of the suspected Misconduct and the availability of relevant evidence.

4.02 In making this determination, the inquiry officer may, but is not obligated to, undertake any of the following actions: (i) meet with the person who reported the suspected Misconduct [...]; (ii) gather and review any evidence concerning the report of suspected Misconduct, including interviewing witnesses [...]; and/or (iii) together with the Chief Compliance Officer, consult with the General Counsel and/or the Chief Internal Auditor.

4.03 Upon completion of the Initial Inquiry, the Chief Compliance Officer shall make a determination that: (i) no further action need be taken on the matter [...]; or (ii) the matter should proceed to a formal investigation [...].”

53. Paragraph 7.01 of the Appeals Directive states:

“(a) In the ordinary course, the Tribunal shall decide the Appeal on the basis of the Appeal Documents which shall include the Statement of Appeal, Response, Findings of

Fact of the Administrative Review Committee and a transcript of the proceedings before the Administrative Review Committee and any other documents and evidence submitted to the Tribunal.

(b) The Tribunal shall take full account of the Findings of Fact made by the Administrative Review Committee in the Administrative Review Committee’s Report and Recommendation unless, on application of either party, the Tribunal determines that the Findings of Fact contain a manifest error on the face of the written materials before it (including the Findings of Fact and the transcript) or are perverse or are reached in breach of applicable law or the Tribunal grants a request of either party to present new evidence not available to that party before the Administrative Review Committee.”

54. The Tribunal recalls that, in reviewing discretionary decisions, it will generally defer to a discretionary decision so long as it falls within the bounds of reasonableness, is based on a thorough review of the available relevant facts, is not tainted by improper motives or procedures, and is consistent with Bank law and international administrative law (cf. EBRDAT Case No. 2024/AT/15, paragraph 19). The Tribunal’s role is not to substitute its views for managerial decisions properly taken (cf. EBRDAT Case No. 2022/AT/02, paragraph 40). However, the Tribunal recalls that “while the assessment of the Bank’s managerial discretion falls outside the scope of the Tribunal’s review, the limited review by the Tribunal does imply an evaluation of whether the procedure followed by the Bank in exercising its discretion and the decision taken were in compliance with applicable law” (EBRDAT Case No. 2023/AT/01, paragraph 66; see also EBRDAT Case No. 2021/AT/03; EBRDAT Case No. 2022/AT/22, paragraph 41).

6. THE CDRP DECISION (EBRDAT 2025/AT/03)

55. The Tribunal first addresses the CDRP Decision before turning to the Non-Renewal Decision. The question is whether the President erred in accepting the ARC’s recommendation that OCCO’s decision to close the initial inquiry — the purpose of which was to determine whether the behaviour of the Line Manager could constitute misconduct and be referred for an investigation — was lawful and in accordance with due process. The Tribunal recalls that the burden of proof in allegations of harassment and abuse of authority lies with the individual making those allegations (cf. EBRDAT Case No. 2023/AT/01, paragraph 74; Administrative Tribunal of the International Labour Organization (“ILOAT”), Judgment 4253, consideration 6),

and that the applicable standard for the underlying allegations is whether it is more likely than not that the conduct complained of occurred as alleged. In reviewing OCCO's decision and the ARC's endorsement of the decision, however, the Tribunal applies the manifest error standard set forth in paragraph 7.01(b) of the Appeals Directive: the Tribunal departs from the ARC's findings only if they contain a manifest error, are perverse, or are reached in breach of applicable law.

The OCCO Process

56. The Inquiry Officer reviewed the documentary evidence submitted by the Appellant, interviewed the Appellant on three occasions, and applied the legal definitions of harassment, bullying, and abuse of authority set out in the Code of Conduct and the Guidance Note on Rule 2. The Inquiry Officer produced an Initial Inquiry Report. The Tribunal requested the Bank to produce the OCCO Initial Inquiry Report; the Bank complied but requested that the Report be reviewed *in camera*. The Tribunal has so reviewed the Report but does not consider it necessary to rely on it in reaching its conclusions and does not take it into account, since the facts as presented by the parties and in the ARC Reports are sufficient for the purposes of this Decision. The Tribunal has therefore not transmitted the Report to the Appellant (cf. EBRDAT Case Nos. 2019/AT/07 and 2020/AT/05, Preliminary Decision, 29 August 2020, paragraphs 65–68). Similarly, the Tribunal has reviewed the medical documentation submitted by the Appellant and the Appellant's voice recordings *in camera* and, as set forth above, does not consider it necessary to rely on them in reaching its conclusions.

57. It appears from the Appellant's submissions and testimony before the ARC that there was a misunderstanding between the Appellant and the Inquiry Officer as to the Appellant's rights with respect to the interview of witnesses during the initial inquiry. The Inquiry Officer maintains that the Appellant did not request that witnesses be interviewed. The Appellant maintains that she was informed that witnesses are interviewed only at the formal investigation stage, not during the initial inquiry. In this regard, the Tribunal notes that a communication from the Inquiry Officer dated 29 July 2024 stated that the initial inquiry "is not the formal investigation that would determine whether misconduct has occurred" and that her role was "to assist the Chief Compliance Officer in making her determination whether or not to open a formal investigation". The Tribunal further notes that the Bank, in its response before the ARC, stated that the Appellant

was “unable to provide any names” of witnesses and “failed to name anyone to corroborate her version of events”, a characterisation the Appellant contests. The Tribunal has no reason to doubt the veracity of either party on this point. Nonetheless, the Tribunal observes that, under the circumstances of this case, where the Appellant alleged a pattern of conduct that might not be visible exclusively from documents, it would have assisted proper process if the Inquiry Officer had sought testimony from colleagues identified by the Appellant. Since, however, the decision whether to interview witnesses during the initial inquiry is a discretionary matter under Article 4.02 of the CDRPs, the Tribunal will not substitute its judgment for that of the Inquiry Officer on this point.

The ARC Process

58. The Appellant contends that OCCO unduly narrowed the scope of its inquiry by treating the substantive fairness of the SPMP as a matter for HR rather than as part of its assessment of the misconduct allegations. The Tribunal notes that the Inquiry Officer’s approach in this regard reflected the division of responsibilities under the Bank’s internal framework, in which the fairness of a performance management process is assessed by HR rather than by OCCO. While a broader approach might have been desirable, the Tribunal does not find that the scope of OCCO’s inquiry was unlawful.
59. The ARC conducted its own fact-finding, hearing testimony from the Appellant, the Inquiry Officer, the Line Manager, four witnesses nominated by the Appellant, and a representative of HR. The Appellant contends that two additional witnesses she nominated were listed on the ARC’s witness schedule but were not interviewed, the former having been on leave on the hearing day and the latter having been described by the Bank as unavailable. The ARC Report does not address why these witnesses were not heard. The ARC concluded that the evidence did not disclose conduct meeting the threshold for harassment, bullying, or abuse of authority, and that the Appellant’s complaints were “more based on perceptions rather than facts”. The ARC further found the Inquiry Officer’s testimony to be “very detailed, clear, demonstrating frankness and good faith” and found “no reasons whatsoever to depart from it”.

Assessment

60. Applying the manifest error standard, the Tribunal does not find that OCCO’s decision to close the initial inquiry was unlawful. The Inquiry Officer reviewed the available evidence and

concluded that the conduct complained of did not meet the threshold for Misconduct under the CDRPs. This conclusion, while one about which reasonable minds might differ, falls within the range of outcomes reasonably available to the Inquiry Officer on the basis of the evidence before her, and does not constitute a manifest error. The ARC, having conducted its own more extensive fact-finding, reached the same conclusion. The Tribunal sees no reason to depart from the ARC's assessment on this point. The Tribunal accordingly rejects the appeal in respect of EBRDAT Case No. 2025/AT/03.

61. The Tribunal nonetheless identifies certain aspects of the process that, while not reaching the level of manifest error in the ARC's findings, are a matter of concern. First, the Tribunal notes that the Appellant was placed on the SPMP approximately six weeks after receiving a "Performing as required" rating and performance-based compensation. HR did not independently verify whether the objectives set under the SPMP were reasonable or comparable to those of peer-level colleagues; the HR representative confirmed before the ARC that she would "take a line manager's word" that objectives were reasonable. Moreover, the substantive fairness of the SPMP was never independently assessed within the Bank: the Inquiry Officer indicated it was a matter for HR, while HR was engaged exclusively by the Line Manager and never spoke to the Appellant. The Tribunal notes that the Appellant raised these concerns contemporaneously and in writing on 30 June 2024, copying HR and the Director, without receiving any independent assessment. The Tribunal considers these procedural gaps regrettable.
62. Second, as regards the Appellant's contention that the Bank breached its duty of care, the Tribunal observes that the Appellant contacted the Ombuds on 3 April 2024, raised concerns with HR on 30 May 2024, submitted a formal complaint to OCCO on 30 June 2024, and was placed on medical leave on 2 July 2024. These avenues operated in parallel but, on the evidence before the Tribunal, there does not appear to have been an independent review by HR or by the Bank's medical services of the cumulative effect of the Appellant's working conditions on her health. While the Tribunal does not find a breach of due process in this regard, it considers that the Bank's internal mechanisms could have been better coordinated.
63. Third, the ARC's characterisation of the Appellant's professional background as that of a "humanitarian organization" does not adequately reflect the record. The Appellant's career was primarily in climate and environmental finance, including technical roles at institutions whose

mandates involve substantial technical and financial competencies. The United Nations specialised agency at which the Appellant was previously employed cannot accurately be described as a humanitarian organisation.

64. The foregoing observations are made independently of, and without prejudice to, the Tribunal's separate assessment of the Non-Renewal Decision below. The Tribunal emphasises that a finding that conduct did not meet the threshold for misconduct under the Code of Conduct does not preclude examination of the circumstances surrounding a subsequent employment decision. The questions are legally distinct: the first concerns the standard for initiating a formal investigation of misconduct; the second concerns whether the discretion not to extend the Appellant's appointment was exercised on a reasonable and observable basis.

7. THE NON-RENEWAL DECISION (EBRDAT 2025/AT/04)

65. The Tribunal now turns to the Non-Renewal Decision. The question is whether the President erred in accepting the ARC's recommendation that the Non-Renewal Decision was lawful and made on a reasonable and observable basis.

Applicable principles

66. It is a firmly established principle that an organisation does not have a duty to renew a fixed-term contract (cf. World Bank Administrative Tribunal ("WBAT"), Koclar, Decision No. 441 [2010]). A non-renewal decision must, however, be made on a reasonable and observable basis and is subject to review for arbitrariness, procedural deficiency, or improper motivation (cf. EBRDAT Case No. 2017/AT/05, paragraph 87). Even in a restructuring exercise, the administration has the duty to act fairly, justly and transparently (see United Nations Appeals Tribunal ("UNAT"), Loeber, Judgment No. 2018-UNAT-844, paragraph 18).

67. Unlike an allegation of misconduct, where the burden lies with the individual making the allegation, a challenge to a discretionary decision engages the administration's obligation to demonstrate that the decision was taken on a reasonable and observable basis. The Tribunal further recalls the importance it attaches to contemporaneous documentation. As the Tribunal held in EBRDAT Case No. 2024/AT/02-12, the absence of contemporaneous records impedes judicial review, and where the relevant evidence is exclusively in the possession of the

administration, staff members should not be expected to bear the entire burden of proving abuse of discretion (see EBRDAT Case No. 2024/AT/02-12, paragraphs 55 and 58).

The ARC's fact-finding

68. The Tribunal has reviewed the ARC Report for Case 84/2025, the witness testimony, and the submissions of both parties. In circumstances where the ARC's fact-finding is found to be insufficient, it falls to the Tribunal to assess the record before it in order to determine whether the decision under review can nevertheless be upheld. The Tribunal has taken into account the following considerations.
69. The ARC discounted the testimony of several witnesses nominated by the Appellant on the basis that they "did not appear to have sound and direct knowledge of the Appellant's relationship with her line manager, nor did they kn[o]w anything about the restructuring exercise that led to her non-renewal". The Tribunal does not share this assessment. The testimony provided by these witnesses went to a different but equally important question: whether the restructuring rationale was supported by the operational reality of the departments it was intended to serve. One witness testified that the Appellant's departure represented "a real loss" and "real operational loss and risk to business delivery." Another testified that she was grateful for the guidance provided by the Appellant as a technical expert. In this witness's view, the Bank had no staff member with equivalent expertise in a major multilateral donor fund and that there was "absolutely" still a need for someone with the Appellant's profile. The same witness testified that she had provided positive performance feedback about the Appellant to the Line Manager as part of the performance appraisal process.
70. As a fact-finding body, the ARC had both the power and the responsibility to give adequate consideration to the testimony of all witnesses before it, and to seek further testimony where relevant. The Tribunal considers that the ARC erred in dismissing this testimony without adequate justification. The Tribunal further notes that the two additional witnesses the Appellant nominated for the joined proceedings were not interviewed by the ARC, despite being listed on the witness schedule. In this regard, the Tribunal recalls that in an ARC hearing, a complainant should have the right to propose witnesses, and the ARC retains discretion as to which witnesses it will interview, but that discretion should remain independent (cf. EBRDAT Case Nos. 2019/AT/07 and 2020/AT/05, Preliminary Decision, 29 August 2020, paragraph 65). The

Tribunal further recalls its own jurisprudence that the OCCO and administrative review processes are fundamentally different: the former is investigative, while the latter is adjudicative (cf. EBRDAT Case Nos. 2019/AT/07 and 2020/AT/05, Preliminary Decision, 29 August 2020, paragraph 59). It was incumbent upon the ARC, as an adjudicative body, to give adequate consideration to the Appellant's witnesses, particularly in the light of the timeline and sequence of events in this case.

71. The Appellant repeatedly requested the ARC to require the Bank to produce contemporaneous documentation of the restructuring. The ARC neither ordered production nor ruled on the request. No contemporaneous documentation has been produced at any stage of these proceedings. This is a significant gap, particularly where the relevant evidence must have been exclusively within the Bank's possession (cf. EBRDAT Case No. 2024/AT/02-12, paragraphs 55 and 58).
72. The Tribunal notes that the Bank's position on the justification for the restructuring is replete with inconsistencies. First, the Line Manager's initial notification cited "evolving business reasons and operational needs" without explaining how the new role would differ from and replace the Appellant's position. Second, the Managing Director's Decision acknowledged "a large degree of overlap." Third, the Bank's response before the ARC compared the Appellant's role against a position that had been under recruitment since January 2024 and which the Appellant maintains was always intended as an additional post. Fourth, the Bank's response before this Tribunal introduced a three-role framework not previously presented, distinguishing between (i) an "Existing IBF role"; (ii) a "Successor IBF role"; and (iii) an "SE&I role". At no point did the Bank provide a job description for the only actually vacant post at the time of non-renewal, notwithstanding that its description contained language substantially identical to the Appellant's original job description. The Bank's own Donor Strategy for 2021-2025 already identified innovative "blended finance" as a core strategic objective throughout the Appellant's tenure. A further role was advertised in the same team in June 2025 with requirements that narrow the gap between the Appellant's original role and the replacement position still further. The Tribunal recalls that later explanations cannot command the same weight as contemporaneous documentation (cf. GI, WBAT Decision No. 660 [2021]).
73. The contemporaneous published organisational chart of the department, dated July 2025, shows the same five departmental units that existed during the Appellant's tenure. No unit titled "Assess

and Design” appears, notwithstanding the Bank’s submission that such a unit was created. Evidence submitted by the Appellant indicates that the decision to revise her role was taken internally as early as July 2024, during the same period when the Appellant was placed on the SPMP and subsequently on medical leave, four months before she was notified, yet the Non-Renewal notification framed the restructuring in forward-looking terms.

74. The Line Manager’s notification stated that the decision was made “on the basis of business/operational requirements only,” while simultaneously noting that the incomplete SPMP “would have been relevant to our considerations regarding any possible extension.” In its response before the ARC in Case 81/2025, the Bank stated that “the reason for such non-extension was ultimately not the Staff Member’s performance”. In its submissions in Case 84/2025, however, the Bank has relied on the Appellant’s performance history to support the restructuring narrative.
75. The Appellant was informed of the Non-Renewal Decision four days after she informed her Line Manager of her plan to return from medical leave. The Line Manager’s communication simultaneously waived the Appellant’s return to the office. The SPMP remained uncompleted, and the Appellant’s OCCO complaint was recent. The Bank has offered no explicit or specific explanation for the timing. The Tribunal is troubled by this sequence of events.
76. The Tribunal recognises the Bank’s wide discretion to restructure its operations and that fixed-term contracts carry no expectation of renewal. The Tribunal takes note of the testimony of one witness, nominated by the Appellant and a member of the interview panel for the replacement role, who confirmed that the new role has “a much stronger focus” on “blended finance” and that the Appellant is “not a ‘blended finance’ expert”. The Tribunal also takes note of the observation by an ARC Assessor that the relevant programme is undergoing a significant transformation. The Tribunal does not question that the Bank’s relevant function may be evolving. The Tribunal is conscious that it cannot interfere with managerial decisions absent a finding of procedural deficiencies, improper motivation, or irregularity (cf. EBRDAT Case No. 2024/AT/15, paragraph 19). However, the existence of a general strategic direction does not, of itself, demonstrate that the specific decision to abolish the Appellant’s post and not to renew her appointment was taken for the reasons stated. The question is not whether a legitimate reason

could exist, but whether the decision-maker has demonstrated, through proper process, that the stated reason was in fact the reason that motivated the decision.

77. In this regard, the cumulative effect of the considerations identified above, the absence of contemporaneous documentation, the evolving justification, the internal contradictions in the Bank's own submissions, the timing of the notification, and the ARC's dismissal of relevant witness testimony, raises serious concerns about whether the ARC conducted the thorough and independent fact-finding that the Appeals Directive requires. In circumstances where the relevant evidence must have been exclusively in the Bank's possession, the Appellant raised a sufficient case warranting production of that evidence, and the ARC did not address the request for production. The Tribunal considers that the Bank has not demonstrated that the Non-Renewal Decision was made on the basis stated. The Tribunal recalls its own jurisprudence that, where procedural deficiencies in a review process are sufficiently serious, it is impossible to rule out the possibility that the process was tainted by improper considerations (cf. EBRDAT Case No. 2023/AT/03, paragraph 47).

78. For the foregoing reasons, the Tribunal rescinds the President's Decision of 8 August 2025 in Case No. ARC84/2025.

VIII REMEDIES

79. Having found that the President's Decision in Case 84/2025 cannot be upheld, the Tribunal considers that remand to the ARC for further fact-finding would not be appropriate in the circumstances. In the present case, the Appellant's employment ended on 3 January 2025, the restructuring has been implemented, and sufficient time has elapsed that a fresh review of the original decision would serve no practical purpose. The Tribunal therefore proceeds to the question of remedy. The Tribunal notes that the Appellant's employment ended in circumstances attended by the significant procedural deficiencies identified above. The Tribunal further notes that the Appellant has already received an additional 12 weeks' base salary awarded by the Managing Director as a goodwill gesture in January 2025.

80. The Appellant seeks, in respect of EBRDAT 2025/AT/03 (CDRP Decision): (i) removal of the SPMP record from her HR file; (ii) compensation equivalent to two years' salary with benefits and interest at five percent; and (iii) moral damages of GBP 20,000.
81. The Appellant seeks, in respect of EBRDAT 2025/AT/04 (Non-Renewal Decision): (i) compensation equivalent to two years' salary with benefits and interest at five percent; (ii) moral damages of GBP 10,000 for harm to professional standing and GBP 10,000 for harm to well-being; and (iii) a tax adjustment.
82. As regards EBRDAT 2025/AT/03 (CDRP Decision), the Tribunal having rejected the appeal, no compensation is awarded on that claim. However, in light of the procedural concerns identified above, including the absence of independent assessment of the substantive fairness of the SPMP within the Bank, the Tribunal orders the Bank to expunge the SPMP record from the Appellant's HR file.
83. As regards EBRDAT 2025/AT/04 (Non-Renewal Decision), the Tribunal, having rescinded the President's Decision of 8 August 2025, orders the Bank to pay the Appellant compensation in the amount of GBP 10,000, reflecting the harm suffered as a result of the procedural deficiencies identified above. In determining quantum, the Tribunal has taken into account the 12 weeks' base salary already awarded by the Bank as a goodwill gesture in January 2025.

IX COSTS

84. 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.”

85. 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.

X DECISION

86. Based on the above, the Tribunal decides to:

- Reject the appeal in respect of EBRDAT Case No. 2025/AT/03 (ARC81/2025).
- Rescind the President’s Decision of 8 August 2025 in EBRDAT Case No. 2025/AT/04 (ARC84/2025).
- Order the Bank to expunge the SPMP record from the Appellant’s HR file.
- Order the Bank to pay to the Appellant compensation in the sum of GBP 10,000. The Bank shall reimburse the Appellant for any income tax liability she may incur in respect of the compensation awarded.

87. All other claims are rejected.

1 May 2026

For the Administrative Tribunal



Maria Vicien-Milburn

Chair of the Panel