

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

**Case No. 2026/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**

**1 May 2026**

## **I. Introduction**

1. In the present Appeal, the Appellant primarily contests the decision 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 September 2022 as a Principal in one of the Bank’s teams.

3. She maintains that from the outset of her employment, she was subjected to bullying, harassment, abuse of authority, and retaliation at the hands of her line manager. According to the Appellant, she was denied a handover, isolated from colleagues essential to her work, undermined in her responsibilities, subjected to aggressive and intimidating conduct, and targeted through a retaliatory performance review process. She claims that these circumstances led to her resignation on 9 February 2024, effective 9 May 2024.

4. On 17 March 2024, the Appellant submitted a formal complaint under the Bank’s Harassment Free and Respectful Workplace Procedure (RWP) of 1 April 2019 (PRO/2019/17), alleging harassment, bullying, and abuse of authority by her line manager. The Managing Director, Human Resources and Organisational Development (MDHROD) referred the matter to the Office of the Chief Compliance Officer (OCCO) for an Initial Inquiry pursuant to the Directive on Conduct and Disciplinary Rules and Procedures (CDRPs) in its version effective from 11 November 2021. OCCO opened a confidential file in April 2024 and appointed two inquiry officers.

5. In the course of the Initial Inquiry, the Appellant was interviewed and suggested several witnesses, including colleagues in one of the Bank’s Resident Offices and other members of her team. However, OCCO interviewed only one witness in October 2024.

6. According to a note to the file, OCCO informed the Appellant in September 2024 that her line manager was about to separate from the Bank due to unrelated matters. The note, *inter alia*, reads that the Appellant was informed that:

“...no managerial action had been taken against [her line manager] for the RWP matter as it was felt to be a moot point since she was leaving the Bank. ...

It was noted through the experience of [one investigator] that termination of the employment of [the line manager] was unlikely in this case and no management action had been taken thus far. ...

[The Appellant] questioned if anyone was interviewed in relation to her RWP, she also asked if [the line manager] was interviewed. It was explained that due to the separate matter involving [the line manager] and the foresight that she would be caused to separate from the Bank, there was little to be achieved through interviewing parties which would in effect provide a lesser outcome. It was explained to [the Appellant] that here were limitations in relation to the investigation, one being the availability of [the line manager] who was no longer at the London base and would leave the Bank at the end of October... [The Appellant] questioned how this could provide a preliminary conclusion if no party had been interviewed. It was explained to [the Appellant] that resources were also a limitation, priorities needed to be made and resources could be more effectively deployed on ongoing issues and in the interest of the Bank the second matter involving [the line manager] took priority over this one....

[The Appellant] believed the severity of her RWP claim had been under rated... [The Appellant] had thrown away her career for nothing and is looking for EBRD to compensate her for what happened. ...[The Appellant] stated the investigation needed to speak to the [Resident Office] team and provided the name of [XY] as a witness to her investigation....”

7. On 9 January 2025, OCCO submitted its report to MDHROD. The report examined eight different incidents identified by the Appellant as indicative of harassment, bullying and abuse of authority, but concluded that the evidence did not support a finding of misconduct sufficient to warrant a formal investigation. It recommended no further action under the CDRPs.

8. On 30 January 2025, the Appellant was informed about the outcome of her formal complaint. On less than one page, without including any details of the report, the message states that the OCCO report:

“... determined that in accordance with paragraph 4.03(a) of the CDRPs, no further action needs to be taken on the matter from a disciplinary misconduct perspective as it was found that no misconduct occurred. It has now been referred back to HROD for review

and consideration under the RWPs. On behalf of the MDHROD, I write to advise you that she has decided in this matter that the allegations do not warrant any further action and that the matter is closed, pursuant to Section IV, paragraph 1.6(iii) of the RWPs, on the basis that no findings of misconduct were made against [the line manager].”

This decision constitutes the first contested administrative decision.

9. In parallel, the Appellant had challenged her 2023 performance review. Initially rated as “performing below requirements,” she requested review of that decision in April 2024. The review was stayed pending the outcome of the harassment complaint. Following the closure of the OCCO inquiry, the review was resumed. On 13 March 2025, MDHROD overturned the “below requirements” rating, finding that it was not supported by documentary evidence and that there had been inadequate feedback throughout the year. MDHROD did not, however, accept the Appellant’s argument that the review was punitive or retaliatory. This aspect of the decision is also challenged by the Appellant.

10. On 13 February 2025, the Appellant formally requested disclosure of OCCO’s report and underlying evidence in order to exercise her right of review. This request was denied on 26 February 2025. The refusal to provide the OCCO report and related materials constitutes the second contested decision.

11. On the same day, the Appellant submitted a Request for Review to the Bank’s First Vice President (FVP) under the Administrative Review Process. On 27 March 2025, the FVP upheld the MDHROD’s decisions, maintaining both the closure of the harassment complaint (regardless of a partial disagreement with OCCO’s assessment) and the refusal to disclose the OCCO report. The FVP also rejected the Appellant’s argument that her performance review had been retaliatory.

12. On 7 May 2025, the Appellant submitted a Request for Review to the Bank’s President, contesting the lawfulness of the MDHROD’s decisions of 30 January and 26 February 2025, as well as the FVP’s decision of 27 March 2025. The President deemed the request admissible on 28 May 2025 and referred the matter to the Administrative Review Committee (ARC) for consideration.

13. The ARC held several meetings between 25 July and 18 November 2025, including interviewing the Appellant and one of the investigators, as well as a witness whom OCCO had not heard. On 26 November 2025, the ARC submitted its recommendations to the Bank’s President, identifying three “significant procedural deficiencies” attributable to the Bank warranting the award

of moral damages in the amount of GBP25,000, namely: 1. absence of a standalone RWP assessment in MDHROD's 30 January 2025 decision, creating the appearance of conflation between RWP and CDRP standards; 2. an insufficiently comprehensive, insufficiently resourced, and unduly delayed OCCO inquiry, which failed to meet the level of diligence expected in a harassment-related matter; and 3. procedural shortcomings in the 2023 performance review. In addition, it was recommended to reimburse the Appellant's legal fees in the amount of GBP5,000.

14. On 30 December 2025, the Bank's President decided not to accept most of the ARC's findings (PARD). While upholding the contested decisions, the President decided that the Appellant ought to be compensated in the amount of GBP3,000 with respect to the fact that the Administrative Decision did not provide her with sufficient information in order to understand the reasons on which it was based. In addition, as the Appellant did not succeed in all of her claims, it was considered that the amount of legal costs awarded by the ARC should be proportionately reduced and the Appellant should be reimbursed in the amount of GBP2,000.

15. On 25 February 2026, the present Appeal was filed.

16. Upon the Tribunal's request, the Bank provided the OCCO's Initial Inquiry Report ("IR") to the Tribunal for its *in camera* review on a strictly confidential basis. The Appellant has asked for access to this document.

### **III. The Appellant's position**

17. The Appellant primarily contests the lawfulness and propriety of the decision taken by MDHROD on 30 January 2025 to close her harassment complaint without further action, as well as the subsequent refusal of 26 February 2025 to disclose the IR and supporting documentation to her.

18. First, she argues that the Bank fundamentally erred in conflating two legally distinct matters: her harassment complaint under the RWP, and the question of whether her line manager had committed misconduct under the CDRPs. By treating the complaint solely through the prism of misconduct, the Bank dismissed it on the basis that no misconduct finding could be sustained, without addressing the harassment claim in its own right. The Appellant maintains that this constitutes a manifest legal error and led to a denial of her rights under the RWP.

19. Second, she contends that the Bank failed to provide her with a prompt, thorough, and objective investigation of her complaint. She claims that OCCO's inquiry was conducted

reluctantly, suffered from serious delays, and was deficient in scope and substance. Despite her providing the names of several colleagues who could corroborate her allegations, only one was interviewed. She states that OCCO itself admitted that resource constraints limited the inquiry. In her view, these circumstances breached her right to an investigation and her due process rights.

20. Third, the Appellant alleges that she was subjected to a sustained pattern of harassment, bullying, abuse of authority, and retaliation by her line manager. She describes being isolated from colleagues, prevented from collaborating with regional counterparts, undermined in her responsibilities, and subjected to aggressive and intimidating conduct. She claims that these behaviours not only created a hostile work environment but also culminated in a fabricated performance review rating of 'performing below requirements'. Although this rating was later overturned by MDHROD for lack of evidence, the Appellant maintains that the performance review process itself constituted retaliation and abuse of authority.

21. Fourth, she asserts that her health deteriorated as a direct consequence of the toxic work environment. She provides medical reports linking her medical and stress-related conditions to her workplace experience. She further claims that the Bank failed to discharge its duty of care to protect her dignity, health, and professional integrity, and that this forced her into resignation.

22. In terms of remedies, the Appellant mainly requests that the contested decisions be set aside, her harassment complaint be upheld, and that she be granted access to the OCCO report and underlying documents. She further seeks financial compensation (as the equivalent of 21 months of salary) for the loss of income, long-term harm to her career prospects, and the unlawful treatment to which she was subjected. She also requests moral damages for the suffering caused, as well as reimbursement of her legal costs in the amount of GBP14,200.

#### **IV. The Respondent's position**

23. The Bank contests all of the Appellant's claims and submits that the decisions under review were lawful, procedurally correct, and rational. It maintains that the Initial Inquiry conducted by the OCCO complied with the applicable rules, that the decision of MDHROD to close the harassment complaint was taken properly, and that no breach of duty of care or denial of due process occurred.

24. In the Bank's view, a review of the procedure followed demonstrates that the necessary initial inquiry into the allegations was completed, that on a reasonable and observable basis there was

insufficient evidence that the behaviour complained of amounted to misconduct, that the decision that the Appellant’s allegations did not warrant any further action was supported by the evidence upon which it was based and rationally connected to the purpose for which it was taken, and that there was no breach of the Bank’s duty of care to the Appellant.

25. The Bank further rejects the claim that the Appellant was denied due process by not being provided with the OCCO report. It argues that disclosure of such reports is not foreseen under the applicable framework, that sufficient information was provided to her about the outcome, and that confidentiality must be preserved in order to protect all parties and ensure the integrity of internal investigations.

26. With regard to the claims made in the Appeal, the Bank maintains that: (a) The Administrative Decision was taken in accordance with the Bank’s legal framework, applying the correct legal threshold and was not required to contain a separate assessment of the allegations “against the RWP standard”; (b) the Appellant’s right to an investigation and due process was respected; (c) the PARD correctly upheld the decision not to disclose the OCCO Report; (d) the Appellant was not subject to bullying, harassment, abuse of authority or retaliation; (e) the PARD correctly concluded that the 2023 performance review was not abusive or retaliatory; (f) the claim of constructive dismissal has not been made out; (g) the Bank did not breach its duty of care to the Appellant; and (h) the PARD did not err in not accepting the ARC’s recommendation to pay the Appellant GBP25,000 for moral damages. The recommended compensation was excessive, and the underlying legal basis for the award was incorrect.

## **V. The applicable law**

### **A. Directive Conduct and Disciplinary Rules and Procedures (Version 2021)**

#### Article 4 – Initial Inquiry

Article 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.

Article 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 in order to confirm understandings about the key facts and issues involved;
- (ii) gather and review any evidence concerning the report of suspected Misconduct, including interviewing witnesses or others who may be in a position to provide relevant information; and/or
- (iii) together with the Chief Compliance Officer, consult with the General Counsel and/or the Chief Internal Auditor.

Article 4.03 Upon completion of the Initial Inquiry, the Chief Compliance Officer shall make a de-termination that:

- (i) no further action need be taken on the matter, in which case s/he shall record her/his decision in the Confidential File; or
- (ii) the matter should proceed to a formal investigation as provided for in Article 5.

**B. Procedure - Harassment-free and Respectful Workplace (PRO/2019/17) - 1 April 2019**

Paragraph 1.2. Formal Process

- (a) When initial resolution attempts are not appropriate or have been unsuccessful, allegations of improper behaviour are reportable in writing to the Managing Director, Human Resources & Organisational Development.
- (b) The report should describe the alleged improper behaviour and include: the name of the individual whose behaviour is at issue, the name(s) of the individuals subjected to the alleged improper behaviour, the date(s) and location(s) of incident(s), a description of incident(s), names of any witnesses and all relevant evidence available.
- (c) The Managing Director, Human Resources & Organisational Development may initiate an assessment (pursuant to paragraph 1.3 below) in the absence of a written report where there is sufficient cause for concern that improper behaviour has arisen.

Paragraph 1.3. Assessment of allegations

- (a) Allegations of improper behaviour are assessed by the Human Resources Department with a view to determine whether, if the facts alleged were proven, misconduct may have occurred.

The assessment is provided to the Managing Director, Human Resources & Organisational Development for further action.

(b) Making knowingly false or misleading allegations of improper behaviour, verbally or in writing, may result in disciplinary action against the Bank Personnel making the allegations.

(c) The Managing Director, Human Resources & Organisational Development, within 15 working days from receipt of the allegations, shall take one of the following courses of action towards the Bank Personnel who is subjected to improper behaviour and has reported it:

(i) if it is assessed that no misconduct may have occurred:

A. recommend a facilitated resolution of the matter as provided for under paragraph 1.4 below within a set timeline; or

B. refer it for managerial action as provided for under paragraph 1.5 below; or

C. decide to close the matter with no further action.

(ii) if it is assessed that misconduct may have occurred: shall refer the matter for initial inquiry under the Conduct and Disciplinary Rules and Procedures.

**C. Code of Conduct for EBRD Personnel – 11 November 2021**

Duties of Bank Personnel - Rule 2 (d)

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 such.

**D. Directive - Guidance Note for Bank Personnel – Rule 2 (DIR/2022/9) – 22 September 2022**

Paragraph 3 - Harassment, Sexual Harassment, Bullying and Abuse of Authority

Paragraph 3.1 - Definitions

For purposes of Rule 2 of the Staff Code and this Guidance Note, the following definitions shall apply:

(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.

(2) “Sexual Harassment” is any unwelcome sexual advance, request for sexual favour, verbal or physical conduct of a sexual nature, or any other behaviour of a sexual nature by Bank Personnel that causes, has caused, or that might reasonably be expected or be perceived to cause offence or humiliation to other Bank Personnel or Service Providers or create an intimidating, hostile or offensive work environment. Sexual Harassment may occur between persons of the opposite or same sex. Sexual Harassment may take the form of, words, gesture, display of pornography, or other actions of an expressed or implied sexual nature, including any situations where employment decisions are made contingent upon the provision of sexual favours.

(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.

(4) “Abuse of Authority” is 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 (including, without limitation, the giving or withholding salary increase, performance based compensation, promotion, or recommendations in respect of any thereof) of another Bank Personnel or Service Providers. Behaviour by Bank Personnel that occurs during the performance of their official duties, but is addressed to third parties rather than other Bank Personnel or Service Providers, is captured

by the definitions above and may constitute misconduct, regardless of the fact that the addressee of such behaviour was not Bank Personnel or Service Providers.

The examples of Harassment, Sexual Harassment, Bullying and Abuse of Authority set out above are intended to provide guidance only and are not intended to be an exhaustive list.

#### 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 provides further elaboration on the standard that must be adhered to by Bank Personnel in their dealings with colleagues and other Bank staff, requiring 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.

## **VI. The Tribunal's evaluation**

### **Preliminary matters**

#### **Anonymity**

27. 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**

28. 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") (DIR/2021/28), the Tribunal does not consider that there are exceptional circumstances present in this case that would warrant holding oral hearings *sua sponte*.

Requests for document and further submissions

29. In his message of 7 April 2026, the Appellant's Counsel repeated his request to the Tribunal to disclose the IR. He also requested leave to file a supplemental submission with respect to the said report and the right of reply to the Bank's response.

30. The Tribunal rejects these requests: as explained below, a disclosure of the IR at the present stage of the proceedings is neither necessary nor useful, as it would have no impact on the Tribunal's decision. Therefore, the request for leave to file comments on the IR is moot. Finally, it follows from the Appeals Directive that the exchange among the parties, in the ordinary course, is limited to the Appeal and the Response (see Section IV, Articles 4.01 4.04, and 7.01 (a)). The Tribunal sees no reason to depart from this principle in the present case and rejects the request to reply to the Bank's response.

**Merits**

31. The Tribunal will address the substantive issues raised by the present Appeal in turn.

Conflation of the harassment complaint with misconduct proceedings

32. In the Appellant's view, the Bank conflated her complaint under the RWP with a disciplinary assessment of the line manager's conduct under the CDRPs, thereby applying the wrong legal standard and failing to assess her complaint independently. In this respect, the Appellant refers to the ARC's assessment, which stated: "While it was appropriate for MDHROD to rely on OCCO's factual findings, the reasoning of the 30 January 2025 decision indicates that the harassment complaint was treated as contingent upon the misconduct assessment. The decision does not set out a separate, standalone assessment of the harassment allegations against the RWP standard, nor does it address whether the conduct, even if not amounting to misconduct, could nonetheless constitute harassment or inappropriate behaviour under the lower RWP threshold...".

33. The Tribunal does not share this assessment. Indeed, the ILOAT pronounced in its Judgment No. 4207 (2020) that a distinction must be made regarding the standard of proof in disciplinary cases on the one hand, and allegations of harassment on the other hand (see *ibid.*, consideration 14). The Tribunal notes that the Bank's internal law establishes a conceptual relation between 'misconduct' and 'harassment'. In Section IV, Article 1.03 (xi) of the CDRP, the definition of misconduct expressly includes "harassment, sexual harassment, bullying, abuse of authority or

threats to other staff members or third parties” in its “list of examples of behaviours that the Bank considers as Misconduct”. Thus, harassment being considered as misconduct, it is appropriate to assess alleged actions of harassment under the ‘label’ of misconduct.

34. However, the issue of different standards of proof does not arise in the present case. Neither the strict standard of ‘beyond reasonable doubt’ (as used by the ILOAT in disciplinary cases) nor any other standard are mentioned in the decisions at stake. The Tribunal recalls that Section IV, Article 6.01 (a) (iv) of the CDRP requires from an Investigative Report at the end of a Formal Investigation that it shall contain conclusions about whether the evidence substantiates the suspected of Misconduct , “i.e. whether it is more likely than not that the Misconduct did occur as alleged”, thus implementing a lower standard of proof than the ILOAT uses to apply in disciplinary cases. The Tribunal found no indications in the file that this standard had been misapplied, be it by OCCO or by the MDHROD or other officials when dealing with the case. In sum, no improper conflation of the harassment complaint with disciplinary proceedings can be found.

#### Adequacy of OCCO’s inquiry

35. Pursuant to Section IV, Article 4.01 of the CDRP, it is the purpose of an Initial Inquiry to determine whether the conduct at stake would amount to misconduct and whether the matter may be formally investigated taking into account the reliability of the information received, the gravity of the suspected misconduct and the availability of relevant evidence.

36. In this respect, the Tribunal fully joins the assessment of the ARC’s report, which correctly identifies serious deficiencies in the overall conduct of the inquiry. Indeed, OCCO did not interview any of the additional witnesses identified by the Appellant, several of whom were said to have been exposed to the same working environment and could have provided important contextual or corroborating information. Regardless of its discretion in determining investigative steps, OCCO apparently underestimated the fact that harassment cases typically require a broader evidentiary approach, particularly where multiple team members may have observed or experienced similar behaviour. Thus, the failure to interview these witnesses materially limited the factual record.

37. Further, OCCO’s reliance on resource constraints and competing priorities as justification for limiting the inquiry is not acceptable. Insufficient resources cannot excuse curtailing investigative steps or delaying inquiries in harassment cases - nor does the imminent departure of the alleged perpetrator from Bank employment. The Bank bears an institutional responsibility to ensure that

its investigative functions are adequately resourced, especially where allegations concern dignity, safety, and team dysfunction. Pursuant to a general principle of international administrative law, international organisations must adhere strictly to their own rules. Therefore, it is for the Bank to fully implement procedures that safeguard its commitment to a harassment-free and respectful workplace, as it has been included now in the Directive on Respectful Workplace Processes (DIR/2024/10), pursuant to which the Bank does not tolerate any form of improper behaviour, and managers have a responsibility to take appropriate measures to promote a respectful workplace, free of intimidation, hostility and improper behaviour (Section IV, Articles 2.1 and 2.3).

38. In this regard, OCCO's explanation for the Bank's reluctance concerning actions vis-à-vis the line manager that "it was felt to be a moot point since she was leaving the Bank" does not take into account Section IV, Article 11 (a), pursuant to which the termination of an employment prior to the conclusion of the applicable investigative process shall not affect the Bank's right to complete such process.

39. In addition to the shortcomings in the evidentiary approach, OCCO's legal assessment of the incidents as such raises concern. Thus, it is doubtful whether only "an obscene gesture" should be considered as "grossly insulting, or bullying or harassment", as OCCO considered regarding the second incident when the line manager "rudely signalled to the Appellant to remain silent". Also, regarding the third incident, the Tribunal does not share OCCO's view that the use of the word 'muddle-headed' towards the Appellant in her function as a Bank's Principal does not qualify as misconduct since it "is not a grossly insulting phrase". The Tribunal takes note that even the Bank's FVP in his decision of 27 March 2025 on the Appellant's Request for Review of the contested decision found that "some of the analysis, specifically in relation to Incidents Two and Three are not correct".

40. Finally, OCCO's overall approach to the Appellant's complaint seems to be not fully in line with the intentions of the Bank's policy. By examining each of the eight distinct 'incidents' cited by the Appellant separately and in isolation, the IR neglects the observation in the Bank's Guidance Note that harassment, sexual harassment, bullying and abuse of authority "often arise from a course of conduct", rather than from a single incident. Also, the Guidance Note states that all "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 contact, that is important."

41. In sum, the Tribunal considers that OCCO's inquiry was inadequate and, accordingly, it does not provide a sufficient basis for the contested decision of 30 January 2025.

Disclosure of the Initial Inquiry Report (IR)

42. The Tribunal notes there is no provision in the Bank's internal law requiring the Bank to provide a complainant with a copy of the IR or the underlying documents, and it is consistent with the Bank's current practice not to provide complainants with a copy of the IR.

43. However, the exercise of the Bank's discretion must also be consistent with the basic due process guarantees, as recognised by international administrative tribunals, including the right of staff members to receive sufficient information to understand the factual basis and reasoning underlying decisions that affect them. In its decision in Case No. 2025/AT/02, the Tribunal found with respect to an IR that "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 contents 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 Conduct Code, thus enabling the Appellant to make her case."

44. The Tribunal notes that, in the present case, a detailed summary of the IR findings was not given to the Appellant in the contested decision. The message of 30 January 2025 refers to the IR by merely stating: "In summary, it was determined that in accordance with paragraph 4.03(a) of the CDRPs, no further action needs to be taken on the matter from a disciplinary misconduct perspective as it was found that no misconduct occurred."

45. Even when rejecting the Appellant's explicit request for disclosure of the IR, the Bank did not elaborate on the IR's findings. After briefly summarising the eight incidents under investigation, the decision of 26 February 2025 refers to the previous decision by stating: "As outlined in the email provided to you on 30 January 2025, no findings of misconduct were made against [the line manager] that would amount to bullying, harassment or abuse of authority, primarily due to i) a lack of corroborating documentary or witness evidence or ii) the concerns relating to [the line manager's] managerial style, rather than instances of misconduct."

46. The Tribunal finds that the summary provided was too brief to convey the substance of the inquiry or the reasoning applied, and therefore insufficient to allow the Appellant to understand

how her allegations had been assessed or to evaluate whether the outcome was grounded in an adequate evidentiary basis. Accordingly, while the Bank respected its legal framework, the Tribunal, in agreement with the ARC, finds a breach of basic due process guarantees. The Appellant's claim is therefore substantiated in this regard.

Allegations of harassment, bullying, abuse of authority, and retaliation

47. When allegations of harassment, bullying, abuse of authority, and retaliation are examined under the RWP, the specific definitions contained in the Bank's Guidance Note need to be observed. These definitions apply irrespective of the subjective experience of the complainant and must be assessed on the basis of sufficiently established facts. As set out in its findings on the adequacy of OCCO's IR, the Tribunal identified significant shortcomings in the OCCO inquiry, including the failure to interview multiple relevant witnesses and reliance on resource constraints, all of which undermined the adequacy of the inquiry for the purpose of informing an RWP assessment.

48. Nevertheless, the Tribunal must also emphasise that it is not an investigative body, and its role in principle is not to conduct a *de novo* investigation. In contrast, pursuant to Section IV, Article 7.01 (b) of the Appeals Directive, the Tribunal normally shall take "full account of the Finding of Fact made by the Administrative Review Committee". Only in case the "Findings of Facts issued by the Administrative Review Committee have material flaws or were the result of procedural deficiencies", the Tribunal may remand a case to the ARC for further fact finding (*ibid.*, Article ...). This is not the case here, and neither party has requested the Tribunal to do so.

49. According to the established jurisprudence, an allegation of harassment must be borne out by specific facts, the burden of proof being on the person who pleads it (see, e.g., ILOAT Judgment No. 4238, consideration 5). As the Appellant correctly states, "an objective and thorough investigation of the Appellant's complaint by OCCO is now virtually impracticable given the passage of time, and the fact that several concerned persons have left the Bank." However, this unsatisfactory situation does not necessarily result in the overall acceptance of the Appellant's substantive allegations. In the circumstances of the present case, the factual basis for such acceptance is limited to the allegations themselves, with insufficient corroborating evidence by only two - more or less hearsay - witnesses and no testimony from the accused line manager or other witnesses. No other evidence has been submitted to the Tribunal.

50. Since the only evidence before the Tribunal, i.e. the findings of fact in OCCO's report, turned out to be insufficient, it is not possible to draw reliable conclusions in either direction regarding the allegations of harassment, bullying, abuse of authority, and retaliation.

51. It follows from the above that the Tribunal is not in a position to assess the validity of the Appellant's allegations, in particular her claims of having been harassed and retaliated against. Each of these allegations could and should have been investigated by a proper and complete Initial Inquiry. Without the detailed information that such an inquiry could have provided, it is not possible to draw the necessary line established by Paragraph 3.2 (4) of the Guidance Note:

“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.”

52. It follows from the above that the Tribunal must reject the Appellant's request to confirm her allegations of harassment, bullying, abuse of authority, and retaliation.

53. Also, it is neither necessary nor helpful to provide the Appellant with a copy of the insufficient IR at this stage of the proceedings. As the Tribunal already considers the IR as unreliable, any (additional) comments on it from the Appellant's side would have no impact on the Tribunal's assessment.

#### Breach of duty of care

54. The Appellant's asserts that her health deteriorated as a direct consequence of the toxic work environment. She provides medical reports linking her medical and stress-related conditions to her workplace experience. She further claims that the Bank failed to discharge its duty of care to protect her dignity, health, and professional integrity.

55. The Tribunal is not convinced. The medical reports the Appellant has submitted were issued long after she had left the Bank in May 2024. They are based on the Appellant's own description regarding her (former) work situation, rather than on a specific medical analysis. As the ARC rightfully concluded, the documents confirm illness, not causation.

56. Furthermore, the Tribunal observes that the Bank chose to fulfil its obligation to protect dignity, health and professional integrity by adopting the RWP. Any shortcomings in its application can and will be dealt with by the Tribunal, as shown above. In this respect, there is neither room nor need for recourse to an unspecified and general ‘duty of care’,

#### Constructive dismissal

57. The Tribunal recalls that there is a high threshold for a finding of constructive dismissal. As emphasised above, it cannot be determined whether the accused line manager’s previous behaviour towards the Appellant amounted to harassment or similar misconduct (cf. ILOAT Judgment No. 2587 (2006), considerations 10 and 11).

58. It is further noted that the Appellant had already submitted her resignation on 9 February 2024, thus predating the formal submission of the Appellant’s low rating 2023 performance review by her line manager on 19 March 2024, as well as the beginning of the procedurally flawed inquiry of the Appellant’s harassment complaint of 17 March 2024. Therefore, these incidents cannot have given rise to the Appellant’s decision to leave the Organisation. In sum, the Tribunal does not find sufficient evidence for a determination that actions attributable to the Bank were such “that a reasonable person would believe that the employer was marching them to the door” (United Nations Appeals Tribunal (UNAT), Judgment No. 2011-UNAT-130, para. 36, citing UNAT Judgment No. 2010-UNAT-41, para. 24).

### **Remedies**

#### Material damages

59. The Tribunal recalls that, in principle, compensation of material damages requires an illegal act, a causal link between that act and the alleged damage, and evidence regarding the amount of damages. In the present case, as shown above, no harassment, bullying, abuse of authority, retaliation, constructive dismissal or breach of duty of care has been established. Further, the identified procedural shortcomings during the investigation process happened after the Appellant had left the Bank. Thus, the necessary causal link cannot be found, and material damages will therefore not be granted.

#### Moral damages

60. The Tribunal, in line with established international jurisprudence, agrees to awarding moral damages based on material procedural shortcomings committed by the Organisation. The calculation of an appropriate amount of moral damages “can never be an exact science” (UNAT, 2013-UNAT- 309) and depends on the individual circumstances of each case.

61. In the present case, the ARC identified three significant procedural deficiencies attributable to the Bank, i.e. (1) the absence of a standalone RWP assessment in the 30 January 2025 decision, (2) an insufficiently comprehensive, insufficiently resourced, and unduly delayed OCCO inquiry, and (3) procedural shortcomings in the 2023 performance review. In this respect, it was found that these deficiencies contributed to the Appellant’s frustration, anxiety, and loss of trust in the Bank’s internal processes.

62. As explained above, the Tribunal does not share the ARC’s critical views on an alleged lack of a standalone RWP assessment (1), nor procedural shortcomings in the 2023 performance review (3). However, the negative effects of the insufficient OCCO inquiry, reinforced by an insufficient disclosure of its result in the contested decision of 30 January 202, obviously had a negative effect on the Appellant. This negative effect is reinforced by the fact that the procedural shortcomings effectively deprived the Appellant from an opportunity to prove her allegations.

63. In sum, the Tribunal considers it appropriate to award compensation for moral damages in the amount of GBP20,000.

## **VII. Costs**

64. 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.

65. As the Appeal is successful in part, the Tribunal considers it appropriate to order partial reimbursement of the legal costs the Appellant has requested.

**VIII. Decision**

66. Based on the above, the Tribunal decides to
- rescind the contested administrative decision of 30 January 2025;
  - order the Bank to pay GBP20,000 to the Appellant as compensation for moral damages;
  - order the Bank to reimburse GBP5,000 of the legal costs incurred by the Appellant;
  - reject all other claims.

1 May 2026

For the Administrative Tribunal



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Thomas Laker

Chair of the Panel