

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

Annual Report for 2022 of the President of the EBRD Administrative Tribunal Chris de Cooker

Table of Contents

PART I	INTRODUCTION	2
PART II	REPORT ON APPEALS BROUGHT BEFORE THE TRIBUNAL IN 2022 AND ACTIONS OF THE BANK IN IMPLEMENTING THE DECISIONS	3
PART III	INFORMATION REGARDING THE ADMINISTRATIVE TRIBUNAL, ITS COMPOSITION AND ITS ACTIVITIES IN 2022.....	14
PART IV	CONCLUSION	16
ANNEX 1	BOARD DOCUMENTATION ON APPOINTMENTS AND RE- APPOINTMENTS OF JUDGES SERVING ON THE ADMINISTRATIVE TRIBUNAL DURING 2022.....	17
ANNEX 2	<i>CURRICULA VITAE</i> OF JUDGES SERVING ON THE ADMINISTRATIVE TRIBUNAL DURING 2022	18
ANNEX 3	GLOSSARY OF TERMS	21

PART I INTRODUCTION

1. Under Section IV, 9.04(a) of the Appeals Process Directive dated 9 November 2021 (DIR/2021/28), the President of the Administrative Tribunal is required to submit an annual report addressed to the President of the Bank. The report is to be made available to the Board of Directors and staff of the Bank.

9.04 Annual Report

(a) The President of the Tribunal shall prepare an annual report indicating, in summary form, the appeals brought before it in the past year, the decisions taken, and the actions of the Bank in implementing those decisions.

(b) Subject to paragraph 9.03 above, the report shall maintain the essential confidentiality of all parties involved in appeals brought before the Tribunal. The report shall be addressed to the President and shall be made available to the Board of Directors as well as to staff members of the Bank.

2. In accordance with Section IV, 9.03 (a) of the Appeals Process Directive, all case decisions are published in full (and where applicable anonymised at the request of one of the parties or both) on the Bank's website in line with the Bank's commitment to enhancing good governance, openness, transparency and accountability. The link for ease of reference is <http://www.ebrd.com/who-we-are/corporate-governance/administrative-tribunal.html>.

3. The table in part II presents a schematic overview of cases before the Tribunal in 2022 including the request for an appeal, the decision and the actions carried out by the Bank. A more detailed summary of each case follows the table.

PART II REPORT ON APPEALS BROUGHT BEFORE THE TRIBUNAL IN 2022 AND ACTIONS OF THE BANK IN IMPLEMENTING THE DECISIONS

Case Reference / Decision rendered date	Composition of the Tribunal	Details of the request for Appeal by the Appellant against the EBRD (the Respondent)	Tribunal Decision	Action taken and confirmed by the Bank	Full summary in paras :
2019/AT 07 and 2020/AT/05 Final Decision rendered on 30 September 2022	Maria Vicien-Milburn (chair) Michael Wolf Spyridon Flogaitis	<p>In August 2020 the Tribunal issued a Preliminary Decision on the joined cases (2019/AT/07 and 2020/AT/05). The Tribunal determined that the record created by the Administrative Review Committee (“ARC”) was insufficient to satisfy the requirements of Section IV, Paragraph 7.01 of Appeals Process Directive and remanded the cases to the Bank for referral to the ARC for further fact finding.</p> <p>On 1 December 2020, the ARC issued its Additional Report and Recommendation in respect of the joined cases and declined to re-visit its recommendations or to review or supplement its own fact finding considering itself to be “functus officio”.</p> <p>In consideration of the need to conduct further fact finding, the Tribunal held an evidentiary hearing in May 2022.</p> <p>The Appellant requested the withdrawal of the cases in September 2022 “due to a confidential amicable resolution reached with the Bank”.</p>	The Tribunal dismissed the cases.	None required.	

Case Reference / Decision rendered date	Composition of the Tribunal	Details of the request for Appeal by the Appellant against the EBRD (the Respondent)	Tribunal Decision	Action taken and confirmed by the Bank	Full summary in paras :
2021/AT/04 Preliminary Decision rendered on 18 February 2022 Final Decision pending	Plenum: Mike Wolf (Chair until 2-Dec-22), Chris de Cooker (Chair from 30 Dec-22) Thomas Laker (Rapporteur), Maria Vicien-Milburn Marielle Cohen-Branche (from 3 Dec-22) Joan Powers (from 3 Dec-22)	Further details of the Appeal and the Preliminary Decision can be found in the Annual Report for 2021 of the President of the Tribunal – page 6 of the summaries and paragraphs 47-65 but it is reminded that following the Preliminary Decision the case was remanded to the Administrative Review Committee for further fact finding. The ARC subsequently issued a new Report and Recommendations and the President issued a new Administrative Review Decision based on the ARC Report. The Appellant submitted an Appeal against the decision of the President on 2 January 2023.			

Case Reference / Decision rendered date	Composition of the Tribunal	Details of the request for Appeal by the Appellant against the EBRD (the Respondent)	Tribunal Decision	Action taken and confirmed by the Bank	Full summary in paras :
2022/AT/01 <i>Judgement on jurisdiction rendered on 22 March 2022</i> <i>Interlocutory decision rendered on 27 June 2022</i> <i>Final decision rendered on 26 January 2023</i>	Spyridon Flogaitis (Chair until 2 December 2022, Chris de Cooker (Chair from 30 December 2022)) Thomas Laker (Rapporteur). Chris de Cooker Maria Vicien Milburn Michael Wolf (until 2 December 2022), Marielle Cohen-Branche (from 3 December 2022), Joan Powers (from 3 December 2022)	An Appeal was lodged by the Appellant in January 2022 requesting “the Tribunal recommend a review of the provisions contained in the Bank’s Leave Directive, Section IV,4, ‘Parental Leave’ with the view to avoiding and eliminating circumstances in which staff members are subject to unjustified unequal treatment, specifically in cases of twin and multiple births”.	<p>The Bank submitted a challenge to the Tribunal’s jurisdiction. This was rejected by the Tribunal.</p> <p>A description of the appeal, which related to a Regulatory Decision, was published on the Intranet inviting the filing of <i>amicus curiae</i> briefs in accordance with Section 7.03 of the Directive on the Appeals Process DIR/2021/28). Four <i>amicus curiae</i> briefs were received and forwarded to the parties.</p> <p>On 31 May 2022 the Bank informed the Tribunal that following internal discussions, it would be undertaking a review of its parental leave entitlements which would have the effect of removing the differences in entitlements as they related to circumstances of twin and/or multiple births.</p> <p>The Tribunal issued an Interlocutory Decision on 28 June 2022, suspending proceedings and requesting the Bank to report to the Tribunal about the progress of changing its rules on parental leave, including its results no later than 31 December 2022. The Bank informed the Tribunal on 16 December 2022 that the Board of Directors approved changes to the parental leave entitlement in relation to multiple births as part of the annual compensation and benefits review.</p> <p>In its Final Decision of 26 January 2023, the Tribunal noted with satisfaction the parties’ constructive approach, resulting in an amendment of the Bank’s rules. The Tribunal declared the appeal moot as the Bank had addressed the Appellant’s request to recommend a review of the provisions contained in the Bank’s Leave Directive. The Tribunal granted the Appellant’s request to remain anonymous. The case was closed</p>	Amendment to the Directive on Leave.	4-11

Case Reference / Decision rendered date	Composition of the Tribunal	Details of the request for Appeal by the Appellant against the EBRD (the Respondent)	Tribunal Decision	Action taken and confirmed by the Bank	Full summary in paras :
2022/AT/02	Chris de Cooker (Chair) Spyridon Flogaitis Thomas Laker	<p>The Appeal sought 1) the annulment of the President of the Bank's decision confirming the decision taken by the MD HROD to terminate the Appellant's employment during the probationary period, and 2) to challenge the decision to terminate the Appellant's appointment because the Bank had arrived at the conclusion that the Appellant was not suitable for further employment.</p> <p>The Appellant requested compensation for all financial losses.</p> <p>The Appellant recognised in the Appeal that the conditions of Section 3.03 of the Appeals Process Directive had not been met, but invited the Tribunal to depart from these provisions as the appeal raised important questions of racial and sex discrimination – in particular as a single parent during the COVID lockdown.</p>	<p>The Tribunal took into account the ARC's findings of fact and report, which concluded the Appellant had not been afforded a fair evaluation and the decision to terminate employment was disproportionate and unreasonable.</p> <p>The Tribunal noted, however, that the Appellant's performance shortcomings had been identified, documented and notified to the Appellant, following review meetings with the Line Manager, and that the Appellant had been given ample opportunity to improve. No substantial improvement was, however, noted. The Appellant has not convincingly established that these shortcomings would not have occurred in different circumstances.</p> <p>The Tribunal observed that in respect of a decision to terminate employment of an employee in the probationary period, a tribunal may verify that the decision was taken with due regard to principles of due process, but may not substitute its own evaluation to the employer's evaluations of the employee's performance or workload, or on how the employer organizes and carries out its activity.</p> <p>The Tribunal rejected the Appeal in its entirety and awarded no remedy.</p>	None required.	4-16

EBRDAT 2019/AT/07 and 2020/AT/05

1. On 8 July 2019, the Appellant filed an appeal against the Bank with the Tribunal (Case No. EBRDAT 2019/AT/07). On 8 March 2020, the Appellant filed a further appeal against the Bank with the Tribunal (Case No. EBRDAT 2020/AT/05).
2. On 29 August 2020, the Tribunal issued a Preliminary Decision on the joined cases (Cases No. EBRDAT 2019/AT/07 and EBRDAT 2020/AT/05). The Tribunal determined that the record created by the Administrative Review Committee (“ARC”) was insufficient to satisfy the requirements of Section IV, Paragraph 7.01 of the EBRD Directive on the Appeals Process and remanded the cases to the Bank for referral to the ARC for further fact finding.
3. On 1 December 2020, the ARC issued its Additional Report and Recommendation in respect of the joined cases (ARC65/2020). The ARC declined to re-visit its recommendations or to review or supplement its own fact finding. The ARC considered itself to be “*functus officio*” and lacking the legal authority to engage in further fact finding.
4. On 5 January 2021, the President of the Bank noted the ARC’s determination and maintained the original decision in respect of both appeals.
5. In consideration of the need to conduct further fact finding, the Tribunal held an evidentiary hearing on 24 and 25 May 2022 at the Headquarters of the Bank in accordance with Section IV, paragraph 7.02 of the Directive on the Appeals Process.
6. On 5 August 2022, the Parties submitted post hearing briefs.
7. By communication dated 9 September 2022 to the Tribunal, copied to the Bank, the Appellant requested the withdrawal of the cases “due to confidential amicable resolution reached with the Bank”. The Appellant also requested anonymity.

8. By communication dated 16 September 2022, copied to the Appellant, the Bank confirmed that the parties had reached a confidential settlement and concurred with the withdrawal of the cases.

9. In light of the settlement of the appeals between the Bank and the Appellant, the Tribunal deemed it appropriate to close the cases.

10. The Tribunal granted the Appellant anonymity.

11. The Administrative Tribunal dismissed Cases No. EBRDAT 2019/AT/07 and EBRDAT 2020/AT/05 in its decision dated 30 September 2022

2022/AT/01

12. An Appeal was lodged by the Appellant in January 2022 requesting “the Tribunal recommend a review of the provisions contained in the Bank’s Leave Directive, Section IV,4 ‘Parental Leave’, with the view to avoiding and eliminating circumstances in which staff members are subject to unjustified unequal treatment, specifically in cases of twin and multiple births”. The appeal is a continuation of case EBRDAT 2021/AT/02 which was decided by the Tribunal on 26 August 2021 (see Annual Report for 2021. Paras. 17 – 32)

13. The Bank filed a submission challenging the Tribunal’s jurisdiction arguing, that the dispute was *res judicata*, and that the application was time-barred. The Tribunal rejected the Bank’s challenge to jurisdiction on both counts, issuing its Decision of Jurisdiction on 22 March 2022.

14. Based on Rule 4.01 (g) of the Tribunal Appeals Procedures, on 22 March 2022, the President of the Tribunal, through the Secretariat of the Tribunal, published on the Bank’s intranet site a description of the present appeal relating to a Regulatory Decision as was sufficient to enable *amicus curiae* briefs to be filed in accordance with Section 7.03 of the Directive on the Appeals Process DIR/2021/28). By 23 April 2022, four *amicus curiae* briefs were submitted.

15. On 26 April 2022, the Tribunal informed the Bank that no response on the merits had been received within the time-limits set forth in Section IV, Article 4.04 of the Appeals Process Directive. The Bank requested to be provided with 20 working days to respond, following receipt of the *amicus curiae* briefs. As there is no basis for such a request within the Bank's internal legal framework, the Tribunal rejected the Bank's request.

16. On 7 May 2022, the Bank requested the Tribunal to hold an oral hearing to which the Tribunal agreed. The *amicus curiae* briefs were forwarded to the parties.

17. On 31 May 2022 the Bank informed the Tribunal that following internal discussions, it would be undertaking a review of its parental leave entitlements which would have the effect of removing the differences in entitlements as they related to circumstances of twin and/or multiple births. Relevant proposals and recommendations for a decision by the Board of Directors would be made during the upcoming annual compensation and benefits review.

18. The Bank requested the Tribunal to issue directions as necessary to account for the fact that the matter was now moot and oral hearings were no longer required. In its Interlocutory Decision dated 28 June 2022, the Tribunal suspended proceedings and requested the Bank to report to the Tribunal about the progress of changing its rules on parental leave, including its results, no later than 31 December 2022.

19. On 14 December 2022, the Board of Directors approved the Bank's proposals to 1) provide the same amount of paid and unpaid leave for multiple births for a secondary care giver for staff who take parental leave other than maternity leave (i.e. in cases of adoption and surrogacy leave), and 2) extend the time for staff members who are secondary care givers to enable them to take their parental leave within 12 months (instead of 22 weeks) after the birth of the child or from the date that the child legally lives with a family in the case of adoption or surrogacy leave.

20. The Bank requested the Tribunal to issue a final decision considering that the contested

regulatory decision in the Appellant's appeal had now been addressed. The Appellant expressed their satisfaction that the Bank had acknowledged the merits of the appeal.

21. In its Final Decision of 26 January 2023, the Tribunal noted with satisfaction the parties' constructive approach, resulting in an amendment of the Bank's rules. The Tribunal declared the appeal moot as the Bank had addressed the Appellant's request to recommend a review of the provisions contained in the Bank's Leave Directive.

22. The Tribunal granted the Appellant's request to remain anonymous.

23. The case was closed.

2022/AT/02

24. On 23 March 2021, the Appellant submitted a Request for Review of an Administrative Decision (RARD) regarding the decision to terminate their employment. The President referred it to the Administrative Review Committee (ARC) for consideration. The ARC submitted its report and recommendations on 15 December 2021. The ARC concluded that the Appellant was not afforded a fair evaluation.

25. On 19 January 2022, the President of the Bank issued her Decision. She emphasized that the Bank's applicable internal law makes it clear that the purpose of the probationary period is to allow for the assessment of the suitability of a staff member to the Bank and that the Bank may terminate the appointment of a staff member on probation, by giving notice in writing, at any time during the probationary period. The President of the Bank found that the Appellant had received appropriate guidance, feedback, advice and support on the performance of their duties throughout their probationary period, as well as adequate and specific warning of performance shortcomings, a reasonable opportunity to remedy them and was aware of the consequences of continued failure to meet performance expectations during the probationary period. The President also rejected the claims of racial and indirect gender discrimination made by the Appellant in her RARD.

26. The Appellant's Statement of Appeal lodged on 11 April 2022 sought 1) the annulment of the President of the Bank's decision confirming the decision taken by the MD HROD to terminate the Appellant's employment during the probationary period, and 2) to challenge the decision to terminate the Appellant's appointment.

27. The Appellant acknowledged that the facts of their case do not fall within the circumstances outlined in Section 3.03 - Guiding Principles of the Bank's Appeals Process Directive. The Appellant requested the Tribunal, however, to depart from the above-mentioned guiding principle as the appeal raised important questions about how the law on indirect (or disparate impact) sex discrimination applies to protect staff members of the Bank. The Appellant submits that a guiding principle is not a rule and that the text provides that a decision shall 'normally be upheld', meaning that the Tribunal may depart from it if there are good reasons to do so.

28. The Appellant submits that it is likely had they not been dismissed they would have remained in post for the full 3-year period of the employment contract. The Appellant reserved the right to claim reinstatement if no permanent position had been found and should the Tribunal uphold this appeal.

29. In the case reinstatement is not practicable, the Appellant requested compensation for all financial losses, less any income earned by way of mitigation including but not limited to payment of performance-based compensation, lost salary adjusted to account for any pay rise, the value of lost benefits including employer pension contributions, moral damages and any legal fees which may be incurred in the conduct of the Appeal.

30. In the Statement of Appeal, the Appellant alleged that the Bank's approach to evaluate the Appellant's suitability for employment had not taken into adequate account the greater professional disadvantages faced by single working parents with childcare responsibilities during the 2020 COVID lockdown period, thus raising questions of indirect sex discrimination. The Appellant contended that the President did not address any of these questions correctly and overlooked the Bank's serious and consistent failure to recognise that its deployment of standard performance methods to evaluate the Appellant's suitability was

liable to (and did) disproportionately disadvantage the Appellant as a single parent joining the Bank during the 2020 COVID lockdown due to greater childcare responsibilities and the loss of outside help.

31. In its evaluation the Tribunal emphasized that an international administrative tribunal makes its assessment in law on the basis of established facts and evidence. It acknowledged that the ARC did not conduct an evidentiary hearing, nor was a hearing requested by the Appellant; the Tribunal found this regrettable as the case concerned the termination of the Appellant's employment. However, it concluded that the case file with its many annexes was sufficient to convey both parties' factual and legal positions to the ARC and properly formed the basis for the ARC's Findings of Fact.

32. The Tribunal also emphasized that the decision to terminate an appointment is of a discretionary nature and the termination of Appellant's employment during the probationary period is the exercise of a discretionary right of the Bank, and the Tribunal does not have jurisdiction to rule on the substantive reasons on which the decision was based.

33. The Tribunal recalled 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 the applicable law. In this respect, it is to be noted that the Bank's internal law provides that at any time during a staff member's probationary period, the MDHROD may take a reasoned decision to terminate the staff member's employment, following a recommendation in writing by the line manager. Moreover, the Bank has a duty to respect the principles of due process and to not abuse its powers. All staff members, but staff on probation in particular, must be informed of their shortcomings and weaknesses. It is clear from the record, and not in dispute, that shortcomings were identified and brought to the Appellant's attention. A performance plan was set up and regular meetings were scheduled and held. The Bank had sufficient elements on which to base its discretionary decision to determine the Appellant's suitability and to confirm the Appellant in their appointment or not. This is an assessment to be made by the Bank, which has a large discretion in these matters and the Tribunal was satisfied that the process followed was

regular.

34. Also, at any point during or at the end of the probationary period, the staff member's line manager may recommend termination of the staff member's employment by non-confirmation of appointment and, as a result, the staff member's employment may be terminated in accordance with Section IV, paragraph 5 of the Directive on Ending Employment, which provides that the Bank may terminate the employment of a staff member who is on probation and who fails to demonstrate suitability to continue employment with the Bank. The Procedure on Ending Employment provides that at any time during a staff member's probationary period, the MDHR may take a reasoned decision to terminate the staff member's employment, following a recommendation in writing by the line manager.

35. The Bank thus has two obligations; it must demonstrate lack of suitability for continued employment and the decision to terminate must be reasoned. The Tribunal concluded due process was scrupulously followed and the Bank's duties to the Appellant were thus fulfilled.

36. In not following the recommendations of the ARC, the Tribunal noted that the President explained in great detail the reasons why she disagreed with the ARC.

37. The Tribunal granted the anonymity requested by the Appellant and granted the Respondent's request for the names of staff members of the Bank, including the line manager, not to be made public by the Tribunal.

38. The Tribunal concluded the Appellant had not convincingly established that their shortcomings and lack of suitability for the position would not have occurred in different circumstances. The Tribunal did not share the view that under other circumstances the Appellant would have completed the three-year contract. The Tribunal rejected the Appeal in its entirety.

PART III INFORMATION REGARDING THE ADMINISTRATIVE TRIBUNAL, ITS COMPOSITION AND ITS ACTIVITIES IN 2022

39. On 23 March 2006, the Board of Directors approved the *Review of the Grievance and Appeals Procedures (BDS06-039 final)*, and on 25 July 2006 it approved the implementation of the Appeals Procedures (BDS06-132 and BDS06-132(rev1)). The Appeals Procedures became effective on 3 December 2007 upon the appointment of the judges of the Administrative Tribunal. As of 1 April 2019, the Appeals Procedures were transposed into the new “directive” template and became the Appeals Process Directive (DIR/2019/14). Effective from 9 November 2021 the Directive on the Appeals Process (DIR/2021/28) was amended, in accordance with the terms of the Appeals Process, following consultation with the Chair of the Budget and Administrative Affairs Committee (BAAC), the Staff Council and the President of the EBRD Administrative Tribunal (EBRDAT).

40. Section 2.02 of the Appeals Process Directive provides as follows:

- (a) The Tribunal shall consist of five members, all of whom shall be nationals of different member states of the Bank.*
- (b) The members shall be persons of high moral character and possess the qualifications required for appointment to high judicial office or be lawyers or arbitrators expert in the areas of employment relations, international civil service or the administration of international organisations.*
- (c) No member shall be a current or former staff member or officer or current or former member of the Board of Directors or the Board of Governors.*
- (d) The members of the Tribunal shall be appointed by the Board of Directors on recommendation of the President after consultation with the Vice President, Human Resources and Corporate Services & Chief Administrative Officer, the General Counsel and the Staff Council. The President may also appoint a selection committee to assist him to identify the recommended appointees. The members of the Tribunal shall serve for a term of three years (except for the first five members whose terms will be staggered as follows: three for two years and two for three years) and may be re-appointed. A member of the Tribunal may only be removed from office by the Board of Directors based on a recommendation of the President (in consultation with other members of the Tribunal) that the member in question is unsuited for further service.*

41. Appointments and re-appointments are submitted to the Board of Directors for approval – details of the documentation can be found in Annex I.

42. Since the last Annual Report of the President of the Administrative Tribunal, dated April 2022, the Letters of Appointment for Chris de Cooker and Maria Vicien-Milburn have been extended for a further three years until 2 December 2024. The appointments for Spyridon Flogaitis and Michael Wolf ended on 2 December 2022. Marielle Cohen-Branche and Joan Powers were appointed for 3 years on 3 December 2022.

43. The composition of the Administrative Tribunal during 2022 was:

- Chris de Cooker was appointed on 3 December 2018. His current appointment end date is 2 December 2024. Mr de Cooker was elected President of the Tribunal on 30 December 2022.
- Maria Vicien Milburn was appointed on 3 December 2018. Her current appointment end date is 2 December 2024.
- Thomas Laker was appointed on 3 December 2020. His current appointment end date is 2 December 2023.
- Joan Powers was appointed on 3 December 2022. Her current appointment end date is 2 December 2025.
- Marielle Cohen-Branche was appointed on 3 December 2022. Her current appointment end date is 2 December 2025.
- Professor Spyridon Flogaitis was appointed on 3 December 2016. His appointment ended on 2 December 2022. Professor Flogaitis was President of the Tribunal until 2 December 2022.
- Michael Wolf was appointed on 3 December 2016. His appointment ended 2 December 2022.

44. Professor Flogaitis attended the BAAC virtually on 18 May 2022 to present his 2021 Annual Report to Board Members. Board Directors put a number of questions to the President of the Tribunal.

45. A successful Townhall was held in a hybrid format in November 2022 in the Board Room of the Bank's new Headquarters. The panel included members of the Tribunal and the

ARC Chair. Approximately 330 members of staff attended in person or online including representatives of the Staff Council.

46. The Administrative Tribunal met, also in a hybrid format, in November 2022 for their Annual Meeting with representatives of stakeholders in the administrative review process (officers of the Bank, the Staff Council and the Staff Legal Advisor).

47. The Administrative Tribunal is assisted in its work by the AT Secretariat, who is appointed by the President of the Bank. The function of the AT Secretariat is documented in the Appeals Process Directive and its Rules of Procedure.

PART IV CONCLUSION

48. During 2022, the Tribunal received two new appeals. A final decision was issued for the two joined appeals from 2019 and 2020. An appeal from 2021 following remand to the ARC remains pending. This compares with five appeals in 2021 and six appeals in 2020. The appeals of 2022 concerned a regulatory issue and a termination of employment during the probationary period. The Tribunal welcomed the opportunity to hold a Town Hall which provided an overview of the Bank's internal dispute resolution system to staff. It enhanced the visibility of the Tribunal and contributed to the transparency of its operations.

**ANNEX 1 BOARD DOCUMENTATION ON APPOINTMENTS AND RE-
APPOINTMENTS OF JUDGES SERVING ON THE ADMINISTRATIVE
TRIBUNAL DURING 2022**

19/10/2022 BDS22-167 [Appointment of two new members of the Administrative Tribunal](#)
Marielle Cohen-Branche and Joan Powers (3 December 2022 - 2 December 2025)

10/11/2020 BDS20-186 [Appointment of a member of the Administrative Tribunal](#)
Thomas Laker (3 December 2020 – 2 December 2023)

01/11/2021 BDS21 -148 [Reappointment of two members of the Administrative Tribunal
\(ebrd.com\)](#)
Chris De Cooker and Maria Vicien-Milburn (3 December 2021 - 2 December 2024)

ANNEX 2 *CURRICULA VITAE* OF JUDGES SERVING ON THE ADMINISTRATIVE TRIBUNAL DURING 2022

Chris de Cooker (President of the EBRD Administrative Tribunal) (Dutch) has more than 45 years of direct experience in international administrative law. He was an academic for nine years at the University of Leiden, where he developed a special course on international administration. Between 1984 and 2011 (when he retired), Mr de Cooker worked at the European Space Agency in a number of posts, including Head of Staff Regulations and Central Support Division and Head of International Relations Department. Since 2010, he has been a judge at a number of international arbitration and administrative tribunals. He is President of the NATO Administrative Tribunal, of the Asian Development Bank Administrative Tribunal and of the Administrative Tribunal of the ICMD, as well as judge at the GAVI Appeals Tribunal and the OECD Administrative Tribunal. He was an *ad hoc* judge for staff appeals in the Special Tribunal for Lebanon in 2018 and 2021. He was Chair of the Appeal Board of the Global Fund from 2016-2020 and is at present Chair of the BIPM Appeals Committee and Mediator in ITER. He has been advising many international organisations, in particular on their respective internal justice systems.

Marielle Cohen-Branche (French) has over 20 years of judicial experience and served as a judge at the French *Cour de Cassation* from 2003 to 2012. Ms Cohen-Branche served as a member of the World Bank Sanctions Board from 2007 to 2012 and was a member of the Sanctions Commission at the French Stock Exchange Regulator (*Autorité des Marchés Financiers – AMF*), where she currently acts as their ombudsperson. Ms Cohen-Branche was a senior executive and legal manager at an international banking institution. Ms Cohen-Branche was appointed as a judge to the World Bank Administrative Tribunal in 2013 and in 2019 was appointed as the Vice President of the Tribunal. Ms Cohen-Branche was awarded the French *Légion d'honneur* and the *Mérite national* for her distinguished national service.

Thomas Laker (German) has over 30 years of experience as a Judge of administrative law courts. For the past 14 years, Mr Laker has served as a Judge on various international administrative tribunals for several different international organisations, among them, the United Nations, the United Nations Relief and Works Agency for Palestine Refugees, the Organization for Security and Co-operation in Europe the Council of Europe, the North Atlantic Treaty Organisation, the International Tribunal for the Law of the Sea and the

Kosovo Specialist Chambers. Mr Laker was among the first generation of judges to have established the new system of administration of justice at the United Nations and served as the President of the United Nations Dispute Tribunal twice, from 2010-2011 and from 2013-2014.

Joan Powers (American) has over 35 years of legal experience in the field of international administrative law. Ms Powers was in the Legal Department of the International Monetary Fund from 1984 to 2009. As Assistant General Counsel of the IMF, she had principal responsibility for providing advice on administrative legal matters, in particular, the legal aspects of the employment framework and the internal justice system, including cases before the Grievance Committee and the IMF Administrative Tribunal, the standards of conduct and the related investigative and disciplinary processes. Since retiring from the IMF, she has been a consultant to over a dozen public international organizations on various aspects of their internal legal framework. Ms Powers is currently a judge on the GAVI Appeals Tribunal. She has served as the Chair of the Appeals Commission of the International Federation of Red Cross and Red Crescent Societies since 2018, and as the Chair of the Appeal Board of the World Intellectual Property Organisation since 2020.

Maria Vicien-Milburn (Spanish and Argentinian) is an independent international arbitrator in commercial and investment disputes, and a specialist in public international law. She is the Chair of the World Bank Sanctions Board, and judge of the Administrative Tribunals of the Inter-American Development Bank and the International Monetary Fund. She has over 30 years' experience as a senior international civil servant at the United Nations. She served as General Counsel of the United Nations Economic, Social and Cultural Organisation (UNESCO) between 2009 and 2014, and prior thereto between 1999 and 2009 as Director and Deputy of the General Legal Division, Office of the Legal Advisor of the United Nations. She acted for 14 years as the Registrar of the United Nations Administrative Tribunal. She has also been engaged by the International Criminal Court on a short term assignment as a dispute resolution expert.

Professor Spyridon Flogaitis (Greek) was President of the EBRD Administrative Tribunal until 2 December 2022. He is Professor of Administrative Law at the Faculty of Law, University of Athens, Director of the European Public Law Organization, Athens, and Honorary Fellow at Wolfson College, University of Cambridge. He currently is Vice-

President of the European Space Agency's Administrative Tribunal, a member of the European Organisation for the Exploitation of Meteorological Satellites' Appeals Board as well as a member of the European Centre for Medium-Range Weather Forecasts' Appeals Board. He is a former President of the United Nations Administrative Tribunal. Also, Professor Flogaitis is Attorney at Law at the High Court and the Council of State, Greece and Academic Bencher of the Inner Temple, London. He has served three times as Minister of Interior or Alternate Minister of Foreign Affairs in electoral periods in his country.

Mr Michael Wolf (American) has been an arbitrator and mediator since 1995, specializing in labour, employment and pension benefit disputes. He has served as the Chair of the International Monetary Fund Grievance Committee and as Chair of the Board of Appeal for the Pan American Health Organization. He is also a member of the Administrative Tribunal for GAVI (formerly the Global Alliance for Vaccines and Immunization). He was previously Chair of the US Government Accountability Office Personnel Appeals Board and a member of the District of Columbia Employee Appeals Board. Prior to his service as an arbitrator, Mr. Wolf was in the private practice of law, specializing in labour, employment and securities litigation; he also served six years with the US Department of Justice supervising the prosecution of Nazi war criminals. He is the co-author of the book Religion in the Workplace: A Comprehensive Guide to Legal Rights and Responsibilities.

ANNEX 3 GLOSSARY OF TERMS

Appeal	Statement of Appeal
ARC	Administrative Review Committee
ARP	Administrative Review Process
ARP Directive	The Bank's Directive on the Administrative Review Process (DIR/2022/1 and DIR/2019/16)
AP Directive	The Bank's Directive on the Appeals Process (DIR/2021/28)
CCO	Chief Compliance Officer
CDRP	The Bank's Directive on Conduct and Disciplinary Rules and Procedures (DIR/2019/12 and DIR/2021/29)
EBRD	European Bank for Reconstruction and Development
EBRDAT	EBRD Administrative Tribunal
Leave Directive	The Bank's Directive on Leave (DIR/2020/1)
MD, HR & OD	Managing Director, Human Resources & Operational Development
OCCO	Office of the Chief Compliance Officer
PARD	President's Administrative Review Decision
RRAD	Request for Review of an Administrative Decision
Tribunal	EBRD Administrative Tribunal