

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

Case No. 2022/AT/01

Appellant

vs.

European Bank for Reconstruction and Development

INTERLOCUTORY DECISION

by the Administrative Tribunal in plenum

27 June 2022

I. Introduction

1. With the present Appeal, submitted in January 2022, the Appellant requests a review of the provisions of the internal law of the European Bank for Reconstruction and Development (“Bank”) on leave, in particular regarding the rules on parental leave.

II. Facts and procedural background

2. Following various exchanges between the Tribunal and the parties, on 31 May 2022, the Bank informed the Tribunal that it will “undertake a review of its parental leave entitlements as reflected in the Directive on Leave. As set out in the Bank’s 7 May 2022 communication, substantive entitlements of the Bank’s parental leave policies are granted under the authority of the Bank’s Board of Directors pursuant to Section 7(b)(iii) of the Staff Regulations, and consequently any changes to the Bank’s parental leave entitlements require a decision by the Board of Directors. Accordingly, the Bank’s Human Resources Department confirms that it will recommend that the Board of Directors approve changes to the parental leave provisions, which would have the effect of removing the differences in entitlements as they relate to circumstances of twin and/or multiple births. Relevant proposals and recommendations for a decision by the Board of Directors will be made during the upcoming annual compensation and benefits review.”

3. The Bank submits “that the aforementioned review by the Bank of its parental leave entitlements for the Board of Directors’ approval/decision renders the Appellant’s appeal moot. Specifically, the relief requested by the Appellant, which adheres to Section IV, paragraph 8.03 (a) of the Directive on the Appeals Process states: *“I request the Tribunal recommend a review of the provisions contained in the Bank’s Leave Directive, Chapter IV Parental Leave, with a view to avoiding and eliminating circumstances in which staff members are subject to unjustified unequal treatment, specifically in cases of twin and multiple births”*.

4. In the Appellant’s view, the Bank’s offer of 31 May 2022 to undertake a review of its parental leave entitlements as reflected in the Directive on Leave, does not render the case moot. He emphasizes that there is no reference to the concept of mootness in the Appeals Directive. Such concept would render the Bank’s internal justice system obsolete if the Bank could unilaterally declare a case to be moot, based on a future intention to propose some currently unknown changes which, in the Appellant’s view, “is, after all, only a loose statement of intention.”

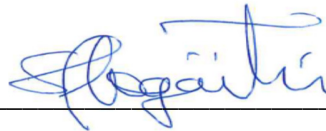
III. The Tribunal's evaluation

5. In the view of the Tribunal's majority, the case is not moot at the present stage. Considering the Bank's Human Resources Department confirmation to recommend, during the upcoming annual compensation and benefits review, to the Board of Directors to change the respective rules on parental leave, the Tribunal finds it appropriate to be informed about the outcome of this commitment before taking a final decision, when necessary. In the interest of justice, the Bank's internal process should be carried out as quickly as possible.

IV. Decision

6. The proceedings are suspended until further notice. The Bank is requested to report to the Tribunal about the progress of changing its rules on parental leave, including its results, as soon as possible, in any case no later than 31 December 2022.

27 June 2022



Spyridon Flogaitis, President



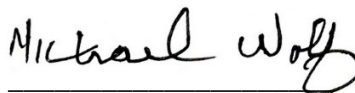
Chris de Cooker



Thomas Laker



Maria Vicien-Milburn



Michael Wolf