

**EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT  
ADMINISTRATIVE TRIBUNAL REPORT 2008-2017**

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**PART I INTRODUCTION**

1. Under section 9.04 of the Appeals Procedures and Rules of Procedures, 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 Section 9.03, 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 the staff.*

2. This Report in fact covers the entirety of the existence of the Administrative Tribunal, since its inception in its present form was approved by the Board of Directors on 25 July 2006 and the subsequent appointment of five judges on 3 December 2007.
3. The reason for this is that the current President of the Administrative Tribunal was only appointed to the position in January 2017 following the non-renewal of Jan Paulsson's Letter of Appointment on 2 December 2016. Mr. Paulsson held the position of President of the Administrative Tribunal from December 2007 until 2 December 2016 (see also paragraph 106 of this report).

**PART II REPORT ON CASES FROM 3 DECEMBER 2007 TO  
2 DECEMBER 2017 AND ACTIONS OF THE BANK IN  
IMPLEMENTING THE DECISIONS**

4. In accordance with Rule 9.03 (a) all case decisions are published in full 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>.
5. The following table presents a schematic overview of each case – the request of appeal, the decision and the action carried out by the Bank. A more detailed summary of each case follows the table.

OFFICIAL USE

Case Reference	Staff member	Request for Appeal by the Appellant against the EBRD (the Respondent)	Tribunal Decision	Action to be taken & confirmed by the Bank	Full summary in paras :
2017/AT/07	Hiromi Sakurai	The Appellant requested an order compelling the Bank to review the substance of two warnings disputed by her, and to award moral damages. The main issue was whether warnings notified to the Appellant were to be considered Administrative Decisions and therefore could be challenged before the Administrative Tribunal.	The Tribunal found that the nature of the warnings received by the Appellant under Section 4.18.2 of the Staff Handbook, did not create any immediate adverse alteration in terms and conditions of employment of the Appellant and could not therefore be construed as an Administrative Decision The appeal was rejected.	None	6-13
2017/AT/06	Anonymised	The Appellant requested remedies against alleged erroneous actions on the part of the Human Resources Department and the Office of the General Counsel of the Bank in relation to pay-outs from the Bank's MPP and the FSP.	The Tribunal found that no employment rights of the individual had been violated by the Bank in the course of its correspondence with the Appellant. The remedies sought by the Appellant were dismissed in their entirety	None	14-20
2017/AT/05 (1)	Anonymised	The Appellant argued that (a) an oral warning was an Administrative Decision that could be challenged and (b) the Bank had violated the applicable law in the course of the performance appraisal of the Appellant Administrative.  The Appellant requested (a) financial remedies as recommended by the Grievance Committee be reinstated and (b) recovery of legal costs and a review of her promotion	The Tribunal requested the Bank to (a) make a thorough analysis of the PBC and salary data and determine if the amount awarded to the Appellant should have been higher (b) award of damages of £3000 for emotional distress as a result of managerial procedural missteps (c) with regard to legal costs, to make an appropriate updated offer.  The Tribunal rejected the appeal to reinstate the promotion.	See 2017/AT/05 (2)	21-26
2017/AT/05 (2) – Supplemental Decision	Anonymised	The Appellant and the Bank agreed to the revised proposal by the Bank for PBC payment.  The Appellant contested the revised salary increase and award of legal costs.	The Tribunal confirmed the salary increase of 8% and decided that the Appellant be awarded 30% of legal costs	The Bank implemented the Tribunal Decision.	27-29

OFFICIAL USE

Case Reference	Staff member	Request for Appeal by the Appellant against the EBRD (the Respondent)	Tribunal Decision	Action to be taken & confirmed by the Bank	Full summary in paras :
2017/AT/03	Anonymised	The Appellant claimed that the Bank had violated international law principles by refusing to extend for medical reasons the procedural time limit for filing a RARD against his performance appraisal.	The appeal was dismissed in full.	None	30-36
2017/AT/02	Anonymised	The Appellant maintained (a) that the Bank had violated the applicable law in the course of the yearly appraisal of the Appellant's performance, and (b) that the alleged irregularities in the appraisal process constituted an abuse of the Bank's managerial discretion.	The Tribunal found that the various irregularities in the procedure had deprived the Appellant of the opportunity to improve his performance, thus impacting the outcome of the performance appraisal and that the Performance Appraisal be set aside. The Tribunal awarded moral damages of GBP 3,000.	The Bank set aside the previous performance appraisal and conducted a new performance assessment which was recorded in the system. Moral damages were paid to the Appellant.	37-44
2017/AT/01	Anonymised	The Appellant claimed that classification into bands in the newly implemented PMF (People Management Framework) was arbitrary and that his salary should be increased as a consequence of his placement in a different band. He requested moral damages.	The Tribunal (a) dismissed the request for adjustment to compensation as there had been no impact on salaries and (b) did not grant moral damages as there had been no downgrading.	None	45-51
2016/AT/02	Floriana Bajrami	The Appellant claimed that, following the allocation of job descriptions to individual staff members and the assignment of roles within the PMF structure, her position had been arbitrarily classified and wrongly downgraded.	The Tribunal acknowledged that the Bank had set aside the Administrative Decision and that the Appellant's downgrading had been withdrawn. However, it observed that the status of the Appellant had been unreasonably downgraded and her corresponding rights violated. The Tribunal dismissed the plea for a salary adjustment. The Tribunal requested the Bank of pay GBP 5000 for moral damages and 50% of legal costs.	The Bank implemented the award of moral damages and 50% of legal fees.	52-60

OFFICIAL USE

Case Reference	Staff member	Request for Appeal by the Appellant against the EBRD (the Respondent)	Tribunal Decision	Action to be taken & confirmed by the Bank	Full summary in paras :
2016/AT/01	Enrico Grassi	The Appellant challenged the time-barring of his RARD submission before the Grievance Committee and the non-extension of the deadline to submit his RARD. The Appellant maintained the deadline should be extended to the next working day, as the date in question had fallen on a non-working day.	The Tribunal allowed the Appellant's appeal and requested that the Bank consider as a matter of good practice adopting uniform rules for all time limits that fall on a non-working day.	The Bank implemented in the review of the Administrative Review Procedures in January 2018, which clarified time limits based on days only.	61-69
2016/AT/01 (costs)	Enrico Grassi	The Appellant submitted an application for reimbursement of the costs directly related to the jurisdictional issues of the case EBRDAT 2016/AT/01	The Tribunal confirmed that the Bank was to reimburse legal costs as specified by the Appellant's lawyers, which it deemed reasonable.	The Bank implemented payment of legal costs to the Appellant.	70-73
2016/AT/01 (withdrawn)	Enrico Grassi	The Appellant initiated an appeal relating to his termination of employment on the basis of unsatisfactory performance, but subsequently withdrew his Appeal.	The Tribunal issued a formal decision closing the case	None	74-77
2014/AT/01 (US Tax)	Jeff Jeter and Lawrence Sherwin	Two Appellants, both US citizens, filed a Statement of Appeal regarding compensation for the taxation to which their salaries are subject in the United States, in addition to the internal tax levied by the Bank. The Appellants alleged that salary adjustments for taxation were practiced in Bratislava and Tunisia.	The Tribunal concluded that the Bank had not violated international administrative law by imposing an internal tax where a member State has retained its right to impose a national tax. The Tribunal concluded that grossing up or salary enhancement has the same function and economic impact as tax reimbursement, and is thus forbidden by Article 53(7) of the AEB. The Tribunal acknowledged the Appellants' information concerning salary enhancements in Bratislava (discontinued), and of salary adjustments in the Tunis Office, but found that unlawful practice may not be considered under Article 3.02(e) of the Appeals Procedures. The Tribunal ordered the Bank to pay the Appellant's reasonable legal costs.	The Bank implemented payment of legal costs to the Appellant.	78-86

OFFICIAL USE

<b>Case Reference</b>	<b>Staff member</b>	<b>Request for Appeal by the Appellant against the EBRD (the Respondent)</b>	<b>Tribunal Decision</b>	<b>Action to be taken &amp; confirmed by the Bank</b>	<b>Full summary in paras :</b>
2013/AT/02	Zbigniew Kominek Robert Adamczyk Mark King (Staff Council)	The Appellants challenged two decisions which they said precluded their access to the Bank's Grievance Committee. The decisions related to (a) the untimeliness of the PARD, which did not lead to deeming that the President accepted the Grievance Committee recommendation and (b) whether the Grievance Committee had jurisdiction to hear a RARD relating to the issuance of the revised GPs.	The Tribunal rejected that the untimely PARD was the equivalent of accepting the Grievance Committee Recommendation. The Tribunal, however, did not accept the correctness of the President's decision on jurisdiction and ordered that the grievances articulated in the RARD be considered by the Grievance Committee on their merits.	None	87-91
2011/AT/01	Anonymised	The Appellant challenged an Administrative Review under the Bank's Disciplinary Procedures that had resulted in upholding the allegations of misconduct against him. The Appellant's employment had been terminated without notice.	The Tribunal concluded that the case involved apparent pre-meditated actions by a senior officer susceptible to harming both the Bank's reputation and its operations. The Tribunal confirmed the sanction of dismissal and its proportionality. The Tribunal was also satisfied that the conflicts in this case justified the action taken by the Bank. The Tribunal in its Judgement dismissed the Appeal.	None	92-100

**Appellant v. EBRD, EBRDAT 2017/AT/07**

6. The Appellant submitted a Statement of Appeal to the Administrative Tribunal against the EBRD requesting an order compelling the Bank to review the substance of two warnings disputed by her, and to award moral damages. The Grievance Committee Report sustained the Appellant's grievance. The PARD rejected the Grievance Committee Recommendations.
7. To consider the Appeal, the President of the EBRDAT appointed a Panel consisting of Boris Karabelnikov (chair), Professor Spyridon Flogaitis and Professor Giuditta Cordero-Moss. The decision was finalised in one month and 15 days.
8. The main issue was whether warnings notified to the Appellant were to be considered Administrative Decisions and therefore could be challenged.
9. The Appellant maintained, i.a., that the Bank's warnings were equivalent to performance appraisals and therefore challengeable as per the generally recognised principles of international administrative law.
10. The Bank maintained, i.a., that warnings are not Administrative Decisions because they produce no direct legal consequences and have no effect on staff members' rights and obligations. They are part of a series of steps within an administrative process, which lead to a final decision. Therefore, warnings are not subject to review.
11. In its evaluation of the matter, the Tribunal referred to Article 2.01 (b) of the Appeals Procedures, according to which the staff member may only appeal an Administrative Decision which allegedly alters in a material or adverse manner his/her terms and conditions of employment. The Tribunal also referred to the provisions of the Staff Handbook – 4.18.2 "Procedure for handling cases of unsatisfactory performance". The Tribunal also noted the Grievance Committee Report and Recommendations, which concluded that the warnings were challengeable.
12. The Tribunal found that the nature of the warnings received by the Appellant under Section 4.18.2 of the Staff Handbook, did not create any immediate adverse alteration in terms and conditions of employment of the Appellant, and could not therefore be

construed as an Administrative Decision being challengeable in the course of the NAP. The remedies sought by the Appellant were dismissed in their entirety.

13. *Actions of the Bank in implementing the decision:* This decision did not require any implementation on the Bank's part.

**Appellant v. EBRD, EBRDAT 2017/AT/06**

14. The Appellant submitted a Statement of Appeal to the Administrative Tribunal against the EBRD, requesting remedies against alleged erroneous actions on the part of the Human Resources Department and the Office of the General Counsel of the Bank in relation to pay-outs from the Bank's MPP and the FSP. The Grievance Committee Report rejected the Appellant's grievance. The PARD accepted the Grievance Committee Recommendations.

15. To consider the Appeal, the President of the EBRDAT appointed a Panel consisting of Boris Karabelnikov (chair), Professor Stanislaw Soltysinski and Professor Giuditta Cordero-Moss. The decision was finalised in one month and 23 days.

16. The main issue was whether the Bank erred in effecting payment of plan benefits to the Appellant in accordance with the timing agreed to by the parties in a Deed of Settlement (payment of the entire sum within 60 days from the Appellant's last date of work). The Deed of Settlement was the result of a mediation process between the parties that followed termination of the Appellant's employment in the Bank. The Appellant alleged that the full amount of the MPP/FSP funds was paid to him contrary to his wishes. Had the totality of the payment been spread over several years, the Appellant's tax liability would have been significantly reduced.

17. The Appellant maintained, i.a., that the Grievance Committee Report was based on manifest errors, an important piece of evidence had been overlooked by the Grievance Committee, and the conclusions of the Grievance Committee Report were unfair. The Appellant requested the Tribunal to suspend the PARD, to support his request for mediation on tax issues, and to direct that a new Grievance Committee should undertake a full and fair review of all the evidence, which would result in the Bank obtaining US tax



advice which would in turn determine what payment could have been deferred and the potential tax liability.

18. The Respondent maintained, i.a., that the Grievance Committee Report was correct in its conclusion that no terms and conditions of employment of the Appellant had been violated, that he had been treated fairly at all times and that he had been free to seek his own tax advice, which he had been advised to do, but had chosen not to. The Respondent also maintained that no award of excess taxes could be justified, and agreed with the Grievance Committee that the Bank could not reimburse the Staff Member for any national tax paid. In addition, the tax issues in question were all raised and settled in the course of the execution of the Deed of Settlement. The Respondent also contested that evidence had been overlooked.

19. In its evaluation of the Appeal, the Tribunal stated its duty was to consider if the PARD alters or is in breach of the Terms and Conditions of Employment at the time of the PARD, and it considered it its duty to resolve the dispute rather than to send it back for a new grievance procedure or mediation. The Tribunal found that no employment rights of the individual had been violated by the Bank in the course of its correspondence with the Appellant with regard to the issue of US taxes. Furthermore, the Tribunal referred to Articles 53(6) and (7) of the AEB, according to which reimbursement of any form of tax is not possible. The Tribunal also noted that, whatever misrepresentations were allegedly made by the Bank's officers prior to execution of the Deed of Settlement, these could no longer be contested by the Appellant, as all existing disputes were finally settled in the Deed of Settlement. The remedies sought by the Appellant were dismissed in their entirety.

20. *Actions of the Bank in implementing the decision:* This decision did not require any implementation on the Bank's part.

**Appellant v. EBRD, EBRDAT 2017/AT/05 (1)**

21. The Appellant submitted a Statement of Appeal to the Tribunal contesting Administrative Decisions by the MDHR and the VPHR related to the appraisal process and its outcome. The Grievance Committee Report partly sustained and partly denied the

Appellant's grievance. The PARD rejected most, but not all, recommendations in the Grievance Committee Report.

22. To consider the Appeal, the President of the EBRDAT appointed a Panel consisting of Michael Wolf (chair), Professor Stanislaw Soltysinski and Professor Giuditta Cordero-Moss. The decision was finalised in two months and 15 days. A Supplemental decision was issued six weeks later.

23. The main issue was whether an oral warning the Appellant had received was an Administrative Decision that could be challenged, and whether the Bank had violated the applicable law in the course of the performance appraisal of the Appellant.

24. The Appellant maintained, i.a., that the President's rejection of the Grievance Committee recommendations was an abuse of discretion undermining the Grievance Committee. The Appellant asked that the Tribunal reinstated the financial remedies recommended by the Grievance Committee, recovery of legal costs and urgent review of her promotion.

25. The Bank maintained, i.a., that, because the oral warning had been deleted from the Appellant's file, she no longer had a cause for action in this respect. Also, the Bank maintained that appeal against an oral warning is not admissible under the Grievance Procedures, as an oral warning is not an Administrative Decision. It also rejected the allegation that the Appellant's supervisors had abused their discretion in using the performance management system and withholding promotion of the Appellant.

26. The Tribunal found that the issues raised concerning the oral warning were moot, as the warning had been removed from the Appellant's personal file. With regard to the PBC and salary increase, the Tribunal acknowledged they appeared to reflect something less than the Appellant would have received, had her original performance rating remained intact. The Tribunal requested the Bank to make a thorough analysis of the PBC and salary data and determine if the amount awarded to the Appellant should have been higher. With regard to the withdrawal of her promotion, the Tribunal decided it was a considered assessment of events surrounding the Appellant's conduct, and that the Bank did not abuse its discretionary authority. Regarding the alleged irregularities concerning

performance assessment, the Tribunal deemed these not to have been material because they did not alter the outcome of the investigative decision. The Tribunal recommended, however, that initial assessments under the RWP should be conducted with due regard to the scope of the authority set out in the procedures. With regard to the issues of compensation, the Tribunal rejected the Appellant's request concerning loss of promotion, as this was properly denied. With regard to moral damages, the Tribunal concluded that the Appellant did suffer emotional distress as a result of managerial procedural missteps in this case, but that the amount of £3,000, as was accorded in the PARD, was appropriate, when taking into account the Appellant's own conduct. With regard to legal costs, the Tribunal urged the Bank to make an appropriate updated offer to the Appellant, reflecting the successes she had achieved prior to or following the PARD. On the implementation of this decision, see EBRDAT 2017/AT/07(2).

**Appellant v. EBRD, EBRDAT 2017/AT/05 (2)**

27. In its decision 2017/AT/05 (1), the Tribunal had directed the Bank to consider the amount of the Appellant's PBC, the amount of the Appellant's salary increase for 2015, and reimbursement of appropriate legal costs. The Appellant and the Bank in the ensuing discussions reached an agreed view on the PBC payment, but did not agree on the matters of the salary increase and the legal costs.

28. Following consideration of the Bank's and the Appellant's positions outlined in the presentation of their respective positions, the Tribunal decided that the salary increase of 8% be confirmed, and that the Appellant be awarded 30% of legal costs.

29. *Actions of the Bank in implementing the decision:* As regards the Tribunal's finding that the Bank should pay a certain amount in moral damages, as well as a portion of the Appellant's legal costs, the Bank informed that these actions have been implemented.

**Appellant v. EBRD, EBRDAT 2017/AT/03**

30. The Appellant submitted a Statement of Appeal claiming that the Bank had violated international law principles by refusing to extend the procedural time limit for filing a RARD. The Grievance Committee concluded it was unable to accept the Appellant's complaint, due to "its non-compliance" with Section 8.02 of the Grievance Procedures,

containing the requirements for a RARD. The PARD accepted the recommendations in the Grievance Committee Report.

31. To consider the Appeal, the President of the EBRDAT appointed a Panel consisting of Professor Soltysinski (chair), Professor Spyridon Flogaitis and Professor Giuditta Cordero-Moss. The decision was finalised in two months.

32. The main issue was whether the Appellant was entitled to an extension of the term to file a complaint against his performance appraisal and, in particular, to file a RARD. The extension, on account of medical ground, was intended to last until a certain time period following declaration that he was fit to return to work.

33. The Appellant maintained, i.a., that the PARD did not consider the request to extend the procedural time limit to submit a Grievance, but instead addressed whether the RARD respected the formal requirements as set out in Section 8.02 of the Grievance Procedures. Other requests to the Tribunal included ordering the EBRD to allow a reasonable time limit for him to file a grievance seeking guidance from a health practitioner, to consider granting moral damages due to breach of duty of care by the Bank and finally that the EBRD make available a budget of £10,000 to aid him acquire assistance to submit the RARD on an agreed extended submission date.

34. The Bank maintained, i.a., that the Grievance Procedures are clear in their requirements for a request for a RARD. Of five requirements, the Appellant had complied with only one.

35. The Tribunal agreed with the conclusion rendered by the Grievance Committee, that the RARD submitted by the Appellant was unreceivable. The Tribunal also confirmed in its decision that the Respondent's decision to uphold the procedural time limits was consistent with principles of international administrative law. Suspending the deadline until the Appellant was fit to return to work, which was an unknown factor, would have been inconsistent with efficient administration and could have robbed the Appellant of an opportunity to review his performance rating. The Appellant's claim was therefore dismissed in full.

36. *Actions of the Bank in implementing the decision:* This decision did not require any implementation on the Bank's part.

**Appellant v. EBRD, EBRDAT 2017/AT/02**

37. The Appellant submitted a Statement of Appeal requesting a review of their Performance Appraisal Report. The Grievance Committee Report concluded that the Bank had abused its managerial discretion. The PARD rejected the recommendations in the Grievance Committee Report.

38. To consider the Appeal, the President of the EBRDAT appointed a Panel consisting of Professor Giuditta Cordero-Moss (chair), Professor Spyridon Flogaitis and Michael Wolf. The decision was finalised in three weeks.

39. The main issue was whether the Bank had violated the applicable law in the course of the yearly appraisal of the Appellant's performance, and whether the alleged irregularities in the appraisal process constituted an abuse of the Bank's managerial discretion. Among the alleged irregularities was that the feedback upon which the Performance Appraisal Report had been based had not been obtained in compliance with the Bank's procedures. Also, it was alleged that the Line Manager had conferred with a feedback provider to influence the feedback given.

40. The Appellant maintained, i.a., that the PARD did not give adequate reasons for departing from the Grievance Committee recommendations, it ignored the Grievance Committee Report findings of breach of the applicable law, or dismissed them as having no impact.

41. The Bank maintained, i.a., that the Grievance Committee Recommendations are not binding. It further maintained that, while it would have been preferable for feedback to be obtained within the framework of the formal procedure, alternative ways were not precluded. It agreed that there had been inappropriate interference with the feedback, but, as the feedback in question remained positive, the interference had no impact on the overall appraisal.

42. In its evaluation, the Tribunal referred to AT Rule 3.30 (b), which states that the Tribunal may review an Administrative Decision if it “was carried out in violation of the applicable procedure”. The Tribunal found it had the authority to carry out an independent evaluation of whether the procedural violations had an impact on the Performance Appraisal. The Tribunal noted that appraisal procedures are established to ensure objectivity and transparency. The various irregularities in the procedure had deprived the Appellant of the opportunity to improve his performance, thus impacting the outcome of the performance appraisal. Furthermore, the Tribunal found that contacting one of the feedback providers, with the result that she changed her feedback, was a breach of procedural rules that impacts the overall credibility of the review process and violates fundamental principles governing the performance appraisal process – a process which is designed to ensure fair and informed decision making.

43. On this basis, the Tribunal concluded that the Performance Appraisal and the PARD be set aside. It did not agree to the request by the Appellant for the evaluation to be changed, as the Tribunal does not have the authority to do so. The Tribunal requested the Respondent to either ensure the actual performance of the Appellant be duly recorded or, if not possible, to issue a letter of recommendation for the duration of the employment of the Appellant. The Tribunal awarded moral damages in accordance with that proposed by the Grievance Committee, i.e. GBP 3,000.

44. *Actions of the Bank in implementing the decision:* As regards the recommendation that the Bank ensure that the actual performance of the Appellant be recorded, the Bank informed that a new performance assessment has been undertaken by the MD for the business area. As regards the Tribunal’s finding that the Bank should pay a certain amount in moral damages, the Bank informed that this has been implemented.

**Appellant v. EBRD, EBRDAT 2017/AT/01**

45. The Appellant filed a Statement of Appeal complaining that the classification into bands in the PMF was arbitrary. The Grievance Committee Report sustained the Appellant’s grievance only in part. The PARD accepted in part the recommendations made in the Grievance Committee Report.

46. To consider the Appeal, the (previous) President of the EBRDAT appointed a Panel consisting of Professor Giuditta Cordero-Moss (chair), Professor Stanislaw Soltysinski and Boris Karabelnikov. The decision was finalised in five weeks.

47. The main issues were whether the classification of roles into bands within the newly implemented PMF was arbitrary, and whether the Appellant's salary was to be increased as a consequence of his placement in a different band.

48. The Appellant maintained, i.a., that distinguishing between the roles of OM and SAO was unlawful discrimination. He also requested that, after the PARD accepted the Grievance Committee Recommendation that he be placed in band 5, he should receive payment of the difference in earning as from the date of the original Administrative Decision that had placed him in band 4, as well as payment of interest on the compensation, moral damages additional to the ex gratia payment of GBP 3,000 and legal costs.

49. The Bank maintained, i.a., that classification in two different roles was fair and reasonable. Any anomalies were due to reasons of legacy and would be brought into line when staff left and new staff joined. The PMF was an instrument for career planning, and not for salary setting. Therefore, it was not appropriate to adjust the Appellant's salary from the date of the decision placing him in band 4.

50. In its evaluation the Tribunal observed that the factual basis of the case largely overlapped with that of EBRDAT 2016/AT/02. It found the application of the two roles, SAO and OM, to be based on objective and rational criteria, as long as they were placed in the same band. The Tribunal also dismissed the request by the Appellant to be compensated from the date of the original decision, as placement in bands did not have an impact on salaries. The Tribunal also concluded that there was no case for any further award for moral damages, as the Appellant had not been downgraded, merely confirmed in his present position.

51. *Actions of the Bank in implementing the decision:* This decision did not require any implementation on the Bank's part.

**Appellant v. EBRD, EBRDAT 2016/AT/02**

52. The Appellant filed a Statement of Appeal regarding the classification of her position following the allocation of job descriptions to individual staff members and the classification of roles within the PMF structure. The Grievance Committee Report sustained the Appellant's grievance. The PARD accepted in part the recommendations of the Grievance Committee's Report.

53. To consider the Appeal, the (previous) President of the EBRDAT appointed a Panel consisting of Professor Stanislaw Soltysinski (chair), Professor Giuditta Cordero-Moss and Boris Karabelnikov. The decision was finalised within seven weeks.

54. The main issue was whether the classification of roles into bands within the newly implemented PMF was arbitrary.

55. The Appellant maintained, i.a., that the PARD was unlawful as it had rejected the Grievance Committee's Recommendations without giving any reasons. She maintained that she had been discriminated against in her placement within the PMF. She also requested to be placed in band 5, and that her salary be adjusted accordingly.

56. The Bank maintained, i.a., that the Administrative Decision appealed by the Appellant had subsequently been rectified by a job description review. This followed the PARD which specifically requested a 'review be carried out by the Human Resources Department of the generic job descriptions of the roles of the Office Manager [OM] ... and Senior Administrative Officer [SAO] .... in order to arrive at a result that is based on objective, rational business considerations that are applied fairly across all Resident Offices....'. The review was completed on 18 August 2016 and communicated to the Appellant on 19 August 2016. The Bank therefore submitted that no rights of the Appellant had been violated, no discriminatory treatment had taken place and all decisions by the Bank had been lawful and reasonable.

57. In its evaluation of the position of both parties, the Tribunal accepted that, in accordance with Sections 1.03 and 8.01 (a) of the Grievance Procedures, the recommendations of the Grievance Committee are not mandatory for the President of the Bank. The Tribunal noted that the Appellant had been downgraded from band 5 to band 4



as a result of the Administrative Decision and was then returned to band 5 following the Job Description Review. The Tribunal acknowledged that the Bank had set aside the Administrative Decision and that the Appellant's downgrading had been withdrawn. However, it observed that the status of the Appellant had been unreasonably downgraded and her corresponding rights violated. The Tribunal decided that, in accordance with Section 8.04 of the Appeals Procedures, the delayed Administrative Decision was arbitrary as applied to the Staff Member. The Tribunal dismissed the plea for salary adjustment, as there was no evidence that the PMF was a salary setting tool.

58. The Tribunal, in its consideration for moral damages, observed that damages may be awarded in case of non-pecuniary loss, such as distress or damage to reputation and that, in the case of the Appellant, the arbitrary downgrading of her position for some 20 months inevitably caused serious moral suffering in connection with both her own and her co-workers' perception of her professional performance and prospects. The Tribunal therefore requested that relief in the form of moral damages be awarded in the amount of GBP 5,000.

59. Based on the above, and that two of the four remedies sought in the Statement of Appeal had been awarded, the Tribunal requested the Bank to pay 50% of the legal costs incurred by the Appellant in her appeal, in accordance with Section 8.06 of the Appeals Procedures.

60. *Actions of the Bank in implementing the decision:* As regards the Tribunal's finding that the bank should pay a certain amount in moral damages, as well as a portion of the Appellant's legal costs, the Bank informed that this action has been implemented.

**Appellant v. EBRD, EBRDAT 2016/AT/01 (1)**

61. The Appellant submitted a Statement of Appeal to the Tribunal regarding the extension of the term to file the RARD.

62. To consider both the first Statement of Appeal (1) and the supplemental appeal with regard to costs (2), the (previous) President of the EBRDAT appointed a Panel consisting of Professor Stanislaw Soltysinski (chair), Jan Paulsson and Boris Karabelnikov. The first decision was finalised in 3.5 months. The supplemental decision took three weeks.

63. The dispute arose when the Appellant filed a RARD in draft form on Friday 5 June 2016 against an Administrative Decision dated 5 March 2015. The final version was submitted on Monday 8 June 2015. The Grievance Procedures foresee that a RARD must be submitted within three calendar months, and therefore the Grievance Committee maintained it could only accept the version of 5 June 2015, unless both sides agreed to consider the final submission on 8 June 2015. The Bank argued that the 8 June 2015 submission was time-barred and should not be considered by the Grievance Committee, as the deadline for filing a RARD challenging the Administrative Decision of 5 March 2016 was in fact 6 June 2015.

64. By letter to the Appellant, and in accordance with the Grievance Committee Recommendations, the President of the Bank informed the Appellant that the Grievance Committee had jurisdiction only over the timely filed “draft” RARD, and that consequently no jurisdiction could be exercised over any new material or element contained in the later version.

65. The Appellant maintained, i.a., that natural justice requires the deadline must be extended to the next working day if the term falls on a non-working day, so as not to restrict the staff member to less than three months.

66. The Bank maintained, i.a., the Grievance Procedures clearly distinguish between deadlines referring to calendar months and those referring to working days, with the latter being immaterial. It also rejected the argument that international administrative law recognises that where a deadline falls on a non-working day, the deadline be extended to the next working day.

67. The Tribunal noted that the relevant sections of the Grievance Procedures are by no means crystal clear, with different treatment of time limits referring to working days and calendar months. There is also silence on the issue whether monthly deadlines landing on a non-working day are extended to the next working day. The Tribunal found that different treatment of time limits constituted an anomaly and recommended a liberal interpretation. It also found the Bank’s interpretation to be formalistic, and that it hindered the Staff Member from defending his rights effectively.

68. The Tribunal allowed the Appellant's appeal against the President's decision and ordered that the Grievance Committee exercise its jurisdiction over all elements of the RARD submitted on 8 June 2015. The Tribunal affirmed that that the Bank may consider, as a matter of good practice and for the purpose of avoidance of similar disputes, that the Grievance Procedures adopt uniform rules for all time limits that fall on a non-working day.

69. *Actions of the Bank in implementing the decision:* The Bank undertook a review of the Grievance Procedures in January 2018. The review resulted in the Directive on the Administrative Review Process being established, which provided for a consistent application to calculation of the time limit in working days only.

**Appellant v. EBRD, EBRDAT 2016/AT/01 (2) (Costs)**

70. The Appellant submitted an application for reimbursement of the costs incurred between 29 June 2015 and 5 January 2016 and directly related to the jurisdictional issues of the case EBRDAT 2016/AT/01.

71. The Bank raised objections to the claim and requested the Tribunal to only order costs that are reasonable and limited to the presentation of the Appeal.

72. The Tribunal issued a "Further Decision on Costs", confirming that, as the Tribunal upheld the Appeal, the Respondent was to reimburse the Appellant for reasonable legal costs pursuant to Section 8.06(a) of the Appeals Procedures, as specified by the Appellant's lawyers. The Tribunal considered the ten activities listed by the Appellant's lawyers to be necessary for submitting the Appeal, and, in accordance to their professional judgement, the legal costs were deemed reasonable in the circumstances.

73. *Actions of the Bank in implementing the decision:* As regards the Tribunal's finding that the bank should pay a portion of the Appellant's legal costs, the Bank informed that this action has been implemented.

**Appellant v. EBRD, EBRDAT 2016/AT/01 (3) (Withdrawn)**

74. The Appellant submitted a Statement of Appeal initiating an appeal relating to his termination of employment on the basis of unsatisfactory performance. The Grievance Committee Report rejected the Appellant's grievance, but awarded compensation of intangible injury. The PARD accepted only in part the Grievance Committee Recommendations.

75. To consider the Appeal, the President of the EBRDAT appointed a Panel consisting of Professor Spyridon Flogaitis (chair), Professor Giuditta Cordero-Moss and Michael Wolf.

76. Six weeks following its submission, the Appellant withdrew his Appeal to the Tribunal. The Respondent advised that it had no objection to the Appellant's withdrawal of the appeal.

77. On 23 October 2017 the Tribunal issued a formal decision closing the case.

**Appellants v. EBRD, EBRDAT 2014/AT/01**

78. Two Appellants, both US citizens, filed a Statement of Appeal regarding compensation for the taxation to which their salaries are subject in the United States. The Grievance Committee Report sustained the Appellants' grievance. The PARD rejected the recommendations in the Grievance Committee Report.

79. To consider the Appeal, the (previous) President of the EBRDAT appointed a Panel consisting of Professor Giuditta Cordero-Moss (chair), Ms Sarah Christie and Professor Stanislaw Soltysinski. The decision was issued following six months of consideration.

80. The main issue was whether the Bank was discriminating employees who are US citizens, when it does not exempt their salaries from internal tax, notwithstanding that those salaries are subject to tax in the USA.

81. The Appellants maintained, i.a., that the fundamental principle of international administrative law, equal pay for equal work, is violated. The Appellants interpreted that this principle applies not only to gross, but also to net pay and, as the net pay of the US employees is subject to internal tax as well as US national tax law, the result is that their

net pay is less. The Appellants referred to Article 53(7) of the AEB and argued that, although it prohibits reimbursement of national tax, it does not disallow grossing up, enhancement of salary or other equalisation schemes.

82. The Bank maintained, i.a., that Article 53 of the AEB does not allow compensation for national tax and that any grossing up of salaries of employees required paying national tax would be unlawful, as it has the same function as effectively reimbursing national tax. The Respondent further argued that under Article 53(6) of the AEB it had no authority to exempt any of its employees from internal tax.

83. In its evaluation, the Tribunal confirmed the principle established by international administrative law with regard to equal pay for equal work. Since there is no internal law establishing a right to equal net pay, however, the Tribunal concluded that the Bank had not violated international administrative law by imposing an internal tax where a member State has retained its right to impose a national tax. Furthermore, grossing up and salary enhancement have the same function and economic impact as tax reimbursement, and are thus forbidden by Article 53(7) of the AEB. The Tribunal interpreted systematically Article 53(6) and (7), and concluded that the Bank has no authority to exempt from internal tax the salaries that are subject to national tax under Article 53(7).

84. The Tribunal acknowledged the Appellants' information that the Bank had a practice of salary enhancements in Bratislava (discontinued), and of salary adjustments in the Tunis Office. The Tribunal confirmed that any such practice is inconsistent with Article 53(7). The Tribunal pointed out that unlawful practice may not be considered under Article 3.02(e) of the Appeals Procedures. The Tribunal concluded therefore that such practice was not relevant to the proceedings and outside the Tribunal's competence in this case.

85. With regard to the costs, the Tribunal referred to the last sentence of Article 8.06(a) of the Appeals Procedures, pursuant to which, under exceptional circumstances, the Respondent may be ordered to pay the Appellant's costs even when the Appeal is not successful. The Tribunal agreed in its deliberations that this was such a case and ordered the Respondent to pay the Appellants' reasonable legal costs.

86. *Actions of the Bank in implementing the decision:* As regards the Tribunal's finding that the bank should pay reasonable legal costs, the Bank informed that this action has been implemented.

**Appellants v. EBRD, EBRDAT 2013/AT/02**

87. The Appellants filed a Statement of Appeal challenging two decisions which they said precluded their access to the Bank's Grievance Committee.

88. To consider the Appeal, the (previous) President of the EBRDAT appointed a Panel consisting of Jan Paulsson (chair), Professor Giuditta Cordero-Moss and Boris Karabelnikov. The decision was concluded after 14 months of deliberations.

89. The main issue was whether the untimeliness of the PARD meant that the President should be deemed to have accepted the Grievance Committee Recommendation. According to this recommendation, the Grievance Committee had jurisdiction on the merits of the RARD. Secondly and in the alternative, the issue was whether the Grievance Committee had jurisdiction to hear a RARD relating to the issuance of revised Grievance Procedures.

90. The Tribunal rejected the recommendation by the Grievance Committee that the untimely PARD was the equivalent of accepting the Grievance Committee Recommendation. The Tribunal, however, did not accept the correctness of the President's decision and ordered that the grievances articulated in the RARD be considered by the Grievance Committee on their merits.

91. *Actions of the Bank in implementing the decision:* This decision did not require any implementation on the Bank's part.

**Appellant v. EBRD, EBRDAT 2011/AT/01**

92. *Note: this grievance originally arose whilst the previous Grievance Procedures were in force. At the time of the Appeal, the new Grievance Procedures and Appeals Procedures had been approved (BDS06-132 and BDS06-132(rev1)), and the Administrative Tribunal in its new form considered the case.*

93. The Appellant submitted a Statement of Appeal relating to an Administrative Review under the Bank's Disciplinary Procedures that had resulted in upholding the allegations against him.

94. To consider the Appeal, the previous President of the EBRDAT appointed a Panel consisting of Jan Paulsson (chair), Ms Sarah Christie and Professor Stanislaw Soltysinski. The decision was issued following thirteen months of consideration.

95. The allegations of misconduct were pertaining to two projects in which the Appellant had been involved and were deemed to fall "at the higher end within the range of seriousness". Consequently, the Applicant was sanctioned by termination without notice (as well as the forfeiture of any resettlement allowance and payments in lieu of annual leave).

96. The allegations arose following the receipt of a complaint by OCCO on 8 February 2010 alleging that the Appellant had received corrupt payments from Mr X in return for the Appellant's support of Bank projects in which Mr X had been engaged by Bank clients. Payments had allegedly been deposited into bank accounts owned by the Appellant's sister.

97. OCCO carried out the inquiry in accordance with the relevant Disciplinary Rules and Procedures in place at the time. The inquiry concluded that the complaint supported allegations of misconduct and on 6 July 2010 the Appellant was formally accused of misconduct, to which he provided a written response on 20 July 2010 denying the accusations. The VPHR appointed a committee to consider the allegations and the Appellant's response. The committee duly concluded that the Appellant had failed to observe the Code of Conduct breaching six of its rules. The VPHR's decision accordingly sustained the allegations of misconduct.

98. The Tribunal stated that, as this was a disciplinary decision, it would be subject to review as to the alleged facts, their characterisation as misconduct, the legal bases for the sanction imposed, the proportionality of the sanction and due process.

99. The Tribunal concluded that the case involved apparent pre-meditated actions by a senior officer of the Bank tantamount to grave and conscious disloyalty to the Bank in circumstances susceptible to harming both its reputation and its operations. The Tribunal warranted the sanction of dismissal and its proportionality. The Tribunal was also satisfied that the conflicts in this case justified the action taken by the Bank. Also, the Tribunal upheld the Respondent's grounds for involvement of the police authorities. The Tribunal in its Judgement dismissed the Appeal.

100. *Actions of the Bank in implementing the decision:* This decision did not require any implementation on the Bank's part.

### **PART III INFORMATION REGARDING THE ADMINISTRATIVE TRIBUNAL, ITS COMPOSITION AND ITS ACTIVITY**

101. 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.

102. Section 2.02 of the Appeals Procedures provides as follows:

*The Tribunal shall consist of five members, all of whom shall be nationals of different member states of the Bank.*

*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*

*No member shall be a current or former staff member or officer or current or former member of the Board of Directors or Board of Governors.*

*The members of the Tribunal shall be appointed by the Board of Directors on recommendation of the President after consultation with the Vice President responsible for Human Resources, 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.*

103. Appointments, re-appointments and resignations were submitted to the Board of Directors for approval – details of the documentation can be found in Annex 1

104. Since 2007, the composition of the Administrative Tribunal has been as follows:<sup>1</sup>

Professor Giuditta Cordero-Moss: December 2007 - on-going (current appointment end date is 2 December 2018)

Boris Karabelnikov: December 2007 - on-going (current appointment end date is 2 December 2018)

Professor Stanislaw Soltysinski: December 2007 - on-going (current appointment end date is 2 December 2018)

Professor Spyridon Flogaitis: December 2016 - ongoing (current appointment end date is 2 December 2019)

Michael Wolf: December 2016 - ongoing (current appointment end date is 2 December 2019)

Jan Paulsson: December 2007- December 2016

Sarah Christie: December 2007- December 2016

Elisabeth Slade: December 2007 - October 2008

105. The President of the Administrative Tribunal is elected in accordance with Rule 2.02 (f) of the Appeals Procedures:

*(f) The Tribunal shall elect its President from among its members. The President of the Tribunal shall serve for a term of three years and may be re-appointed. If the President of the Tribunal is unable to act or resigns during the course of his term, the members of the Tribunal shall promptly (and without waiting for the appointment of a replacement member) elect a new President of the Tribunal who shall serve for the remainder of his predecessor's term.*

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<sup>1</sup>. The résumés of judges can be found in Annex 2.

106. Following the appointment of the five original judges in December 2007, Jan Paulsson served as President to the Administrative Tribunal between 3 December 2017 and 2 December 2016. On 17 January 2017, the Administrative Tribunal elected Professor Giuditta Cordero-Moss as its President.

107. The Administrative Tribunal has convened twice in London during the period in question - in 2008 and again in 2017. In 2008 the newly appointed judges were introduced to the new Appeals Procedures by the Office of the General Counsel (OGC). In 2017 the three original judges together with the two recently appointed judges met and their agenda included meetings with OGC and Human Resources for an overview of the Grievance Procedures and Appeals Procedures. The judges also met with the Grievance Committee Chair, the Ombudsman and a Staff Council Representative. In 2017 the Administrative Tribunal has conferred electronically on two occasions, to discuss and establish a policy in respect of certain matters that arose out of specific cases and that, in the opinion of the President of the Tribunal, may have relevance for future cases.

108. 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 Procedures and Rules of Procedure.

109. Since the approval of the Appeals Procedures and Rules of Procedures (Annex 14.2 in the Staff Rules), there has been one amendment formally approved by the Board.<sup>2</sup> In response to suggestions made by members of the Administrative Tribunal, and after consultation with the Staff Council and the Chair of the Budget and Administrative Affairs Committee, the President of the Bank adopted certain limited amendments to the Appeals Procedures in accordance with Article 10.03(b) of those Procedures, details of which can be referenced in the Board document SGS08-294.

110. Further amendments to the language of the Appeals Procedures and Rules of Procedures were proposed by the Administrative Tribunal and agreed by OGC in 2017. These referred to the coordination of language for the term “President”, as it was not always clear if the Appeals Procedures and Rules of Procedure were referring to the

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<sup>2</sup> 23/12/2008 SGS08-294 [Appeals Procedures - Amendments](#).

President of the Bank or the President of the Administrative Tribunal.

111. In 2017, the AT Secretariat and the Tribunal, together with OGC, clarified the process for publication of the decisions on the Bank's Intranet and Internet. It was agreed that the AT Secretariat would continue to publish the final decisions on behalf of the Bank. (Rule 9.03 (b)).

112. The AT Secretariat and the Tribunal also discussed in 2017 whether the Appeals Procedures require the copying of the Appellant's Statement of Appeal to the Grievance Committee. It was concluded that this is not required.

113. In February 2018, further to the review of its Administrative Review Process as set out in the hitherto Grievance Procedures, the Bank adopted a new Directive on the Administrative Review Process to replace the Grievance Procedures. As a consequence, certain changes to terms in the Appeals Procedures and Rules of Procedures were required in order to align such documents with the new Directive. The President of the Administrative Tribunal was consulted in accordance with Article 10.03 (b) of the Appeals Procedures with regard to the proposed amendment, to which she formally agreed in a Resolution dated 30 January 2018.

#### **PART IV CONCLUSION AND PROPOSED MEASURES**

114. The Appeals submitted to the Administrative Tribunal regard matters that may have significant impact on the Appellants' work and personal situation, as well as their professional prospects. Furthermore, the outcome of these Appeals may affect the Bank's organisation and human resources policy, the working environment and ultimately the proper performance of the employees' tasks and the functioning of the Bank. It is, therefore, of the utmost importance that the decisions taken by the Administrative Tribunal are based on proper understanding and consideration not only of the applicable legal sources, but also of the practical and organisational circumstances surrounding the disputed matters. A proper understanding of the applicable legal sources, furthermore, assumes consideration of the developments within international administrative law, an area of the law in constant evolution and based on fragmented sources.

115. The foregoing indicates that it is important to ensure that the Administrative Tribunal's decisions are informed by a state-of-the-art understanding of all relevant elements, and that they are consistent. Consistency of the decisions is particularly important to ensure predictability and legal certainty.

116. The Administrative Tribunal recognises the importance of meeting periodically with the representatives of the Bank, the Staff Council, the Ombudsman and the Grievance Committee, and deems to have significantly benefited from the meeting that took place in London in May 2017.

117. On the occasion of the meeting in May 2017, the judges also took the opportunity to meet amongst themselves and discuss a unitary approach on policy matters and general issues. Subsequently, the Administrative Tribunal convened a few times electronically, to discuss a consistent and transparent stance to applying the Appeals Procedures and Rules of Procedures, as well as matters of substantive law. Looking forward, it is envisaged that a way of facilitating these internal exchanges would be to hold a yearly seminar of the Tribunal judges, which would promote consistency in their practice.

118. On the basis of the foregoing, the President of the Administrative Tribunal presents, for the consideration of the Bank, the proposal that a budget be established to permit that the judges convene in a yearly two-day seminar to discuss procedural matters and other issues, with a view to ensure competent exchange and a consistent practice.

119. In view of the usefulness of direct exchange of views with representatives of relevant parties, the Administrative Tribunal seminar could be coupled with meetings with representatives of the Bank, the Staff Council, the Ombudsman and the Administrative Review Committee.

**ANNEX 1 BOARD DOCUMENTATION DOCUMENTING APPOINTMENTS, RE-APPOINTMENTS AND RESIGNATIONS OF JUDGES SERVING ON THE ADMINISTRATIVE TRIBUNAL**

11/11/2016 BDS16-214 [Appointment of two members of the Administrative Tribunal:](#)  
Michael Wolf and Professor Spyridon Flogaitis (3 December 2016 - 2 December 2019)

13/01/2016 BDS16-009 [Re-Appointment of three members of the Administrative Tribunal:](#)

Professor Giuditta Cordero-Moss, Professor Stanislaw Soltysinski, Boris Karabelnikov (3 December 2015 - 2 December 2018)

19/11/2013 BDS13-293 [Re-appointment of two members of the Administrative Tribunal:](#)  
Jan Paulsson and Sarah Christie (3 December 2013 - 2 December 2016)

14/11/2012 BDS12-301 [Re-appointment of three members of the Administrative Tribunal:](#)

Professor Giuditta Cordero-Moss, Professor Stanislaw Soltysinski, Boris Karabelnikov (3 December 2012 - 2 December 2015)

22/10/2010 BDS10-260 [Re-appointment of two members of the Administrative Tribunal:](#)  
Jan Paulsson and Sarah Christie (3 December 2010 - 2 December 2013)

17/11/2009 BDS09-246 [Re-appointment of three members of the Administrative Tribunal:](#)

Professor Giuditta Cordero-Moss, Professor Stanislaw Soltysinski, Boris Karabelnikov (3 December 2009 - 2 December 2012)

25/11/2008 BDS08-246 [Appointment of new judge to the Administrative Tribunal:](#)  
Sarah Christie (3 October 2008 – 2 December 2010)

03/10/2008 SGS08-216 [Administrative Tribunal - resignation of Ms Elizabeth Slade](#)

16/10/2007 BDS07-212 [Appointment of Judges to the Administrative Tribunal:](#)

Jan Paulsson, Elizabeth Slade, Professor Giuditta Cordero-Moss, Professor Stanislaw Soltysinski, Boris Karabelnikov

**ANNEX 2 CURRICULA VITAE OF JUDGES SERVING ON THE ADMINISTRATIVE TRIBUNAL, BOTH PAST AND PRESENT**Present Judges:

**Professor Giuditta Cordero-Moss**,<sup>3</sup> Dr. juris (Oslo), PhD (Moscow), is Professor at the University of Oslo, Norway. An originally Italian lawyer, she practiced as a corporate lawyer and acts now as arbitrator in international commercial and investment disputes. In her academic work and as an arbitrator, she deals among other things with questions of labour law, including questions of applicability of rules protecting the employee. Author of numerous books and articles in Norway and internationally, she lectures internationally, including at the Hague Academy of International Law (course on Party Autonomy in International Commercial Arbitration, 2014). She is, among other things, Vice Chairman of the Board of the Financial Supervisory Authority of Norway (2014 to date); member of the Norwegian Tariff Board (2015 to date); delegate for Norway to the Hague Conference Special Commission on the Judgments Project (2017 to date); delegate for Norway to the UNCITRAL Working Group on Arbitration (2007 to date)

**Mr Boris Karabelnikov**,<sup>4</sup> independent practitioner, specializing in litigation of civil, corporate and labour law cases before Russian arbitration courts and courts of common jurisdiction and international arbitration. From 2007 to 2017 Professor of Law at the Moscow School of Social and Economic Sciences. From May 2008 till May 2013 he was a member of the Court of LCIA; since 2012 till 2014 he was a member of the drafting subcommittee of the 2014 LCIA Rules. Advised leading Western Law firms on various matters of Russian law, including labour law disputes with highly ranked officials of banks and collective bargaining; was appointed as an arbitrator in over 50 arbitration cases in Russia, France, England and Sweden; appeared as expert witness before courts of Bermuda, England, Sweden, Germany, the Netherlands and USA and various arbitral tribunals. He authored the first ever Russian language commentary to the 1958 New York Convention, On Recognition and Enforcement of Foreign Arbitral Awards, and textbook for law students on international commercial arbitration, as well as several books on Russian labour law.

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<sup>3</sup> CV updated in January 2018

<sup>4</sup> CV updated in January 2018

**Professor Stanisław Soltysiński<sup>5</sup>** has practiced arbitration as an arbitrator and a party counsel in more than a hundred arbitration cases administered, inter alia, by arbitration courts in Warsaw, London, Vienna, Paris and Budapest. He specializes in the field of commercial law, intellectual property, company law and antitrust law. He authored 15 books and more than 300 papers published in Polish, English, German, French and Korean. He retired from A. Mickiewicz University (Poznań). He was teaching as a visiting professor at Pennsylvania University, College of Europe (Brugge) and Goethe University (Frankfurt am Main). He was a member of UNIDROIT Governing Council. At present, he practices law in his Polish law firm and among other things serves as a member of the European Model Company Act Group (EMCA), European Company Law Experts (ECLE) and the Supervisory Board of the Citi Handlowy Bank.

**Mr Michael Wolf** has been an arbitrator and mediator since 1995, specializing in labour, employment, pension and securities disputes. He currently serves 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 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, pension 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*.

**Prof Spyridon Flogaitis<sup>6</sup>** is Professor of Administrative Law at the Faculty of Law, University of Athens, Director of the European Public Law Organization, Athens, Greece and Honorary Fellow at Wolfson College, University of Cambridge. He currently is Vice-President of the European Space Agency's Appeals Board, 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 National Administrative Tribunal. Also, Prof. 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

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<sup>5</sup> CV Updated in January 2018

<sup>6</sup> CV updated in January 2018

Interior (2007 and 2009) or Alternate Minister of Foreign Affairs in electoral periods in his country (2015).

Past judges:

**Mr Jan Paulsson**<sup>7</sup> – a Swedish national, Mr Paulsson is the Head of the Public International Law and International Arbitration groups at Freshfields Bruckhaus Deringer. He is also an eminent specialist in international commercial law, international arbitrations and international administrative law, who has advised governments around the world on issues of international law. He is the current President of the World Bank Administrative Tribunal (where he adjudicated over 180 cases) and the President of the London Court of International Arbitration. Mr Paulsson speaks fluent Swedish, English, French and Spanish.

**Ms Sarah Christie**<sup>8</sup> – Ms Christie is an attorney and practises as an arbitrator and mediator in employment law in South Africa. She is an Associate in the Institute of Development and Labour Law at the University of Cape Town. She has advised a number of public international organisations on their internal justice and dispute resolution systems. In addition to serving as a judge on the Administrative Tribunal of the EBRD, Ms Christie is currently a judge on the Appeals Boards of the European Space Agency (ESA), the European Organisation for the Exploitation of Meteorological Satellites (EUMETSAT) and the European Centre for Medium-range Weather Forecasts (ECMWF). She has also been a judge on the World Bank Administrative Tribunal.

**Ms Elizabeth Slade**<sup>9</sup> – A British national, Ms Slade is a Queen’s Counsel who specialises in all aspects of employment law, including pensions. She sits as a Recorder and a Deputy High Court Judge and until 2003, sat as a part-time judge of the Employment Appeal Tribunal. She is a member of the Administrative Tribunal of the Bank for International Settlement in Basle and the honorary Vice-President of the Employment Law Bar Association. Ms Slade is of Czech descent with some experience of the EBRD regions. She speaks English, intermediate French and has some knowledge of German and Spanish. (2007).

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<sup>7</sup> CV as provided in 2007 at the time of Mr Paulsson’s appointment

<sup>8</sup> CV as provided in 2007 at the time of Ms Christie’s appointment

<sup>9</sup> CV as provided in 2007 at the time of Ms Slade’s appointment



**ANNEX 3 GLOSSARY OF TERMS**

AEB	Agreement Establishing the Bank
AfDB	African Development Bank
Appeal	Statement of Appeal
APs	Appeals Procedures
CE	Chief Economist
EBRD	European Bank for Reconstruction and Development
EBRDAT	EBRD Administrative Tribunal
ESS	Employee Self Service
FSP	Final Salary Plan
GC	Grievance Committee
GPs	Grievance Procedures
IMF	International Monetary Fund
LM	Line Manager
MDHR	Managing Director Human Resources
MPP	Money Purchase Plan
NAP	Normal Administrative Process
OCCO	Office of the Chief Compliance Officer
OM	Office Manager
PARD	President's Administrative Review Decision
PBC	Performance Based Compensation
PMF	People Management Framework
RARD	Request for an Administrative Review Decision
RIRD	Request for an Initial Review Decision
ROPs	Rules of Procedure
RWPs	Harassment Free and Respectful Workplace Procedures
SAO	Senior Administrative Officer
Tribunal	EBRD Administrative Tribunal
VPHR	Vice President responsible for Human Resources
WBAT	World Bank Administrative Tribunal