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Judgment handed down in GX v International Bank for Reconstruction and Development (Merits), Decision No. 726 [2026] – World Bank Administrative Tribunal recognizes the principle of indirect discrimination for the first time

Introduction

On 15 May 2026, the World Bank Administrative Tribunal (**"WBAT"**) handed down judgment in GX *(Claimant)* v IBRD (Merits), Decision No. 726. For the first time, the WBAT – a 46-year-old International Administrative Tribunal that has issued more than 700 decisions – has recognized the principle of indirect discrimination which is, as a result, enshrined in the jurisprudence of the institutional law that binds the World Bank Group (**"WBG"**).

Alex Haines, leading Carin Hunt, acted for the Applicant throughout these proceedings. The WBG was represented by its Legal Vice Presidency in Washington DC. The WBAT heard the Application, filed in 2022, in plenary session with all seven judges at oral proceedings on 7 April 2026.

Although the Applicant did not ultimately succeed in her claim, as the WBAT held that the rule she challenged was ultimately 'justified' because it achieved a legitimate purpose, *GX* represents a significant development in international administrative law. The WBAT also ordered the Bank to pay half of the Applicant's legal costs due to "*the opportunity to recognize the concept of indirect discrimination and to provide clarity on an issue which has long been of particular interest to many staff of the organization*" [80].

Facts and decisions

The Applicant joined the Bank as a Consultant in 2016 and was appointed to a GE-level staff position in Washington, D.C. in 2017 (the Bank's staff grades run from GA upwards, GE sitting immediately below the professional grades, which begin at GF). In 2022, she was promoted, through competitive recruitment, to a GF-level position in Washington, D.C. that was subject to international recruitment. When she asked Human Resources whether she was now entitled to

mobility premium (**"MP"**) (an additional sum paid to internationally recruited staff at Grade Level GF and above who are posted to a duty station in the US and are not US citizens or permanent residents), she was told that she was not, because she had been promoted within the same location.

The rule behind that answer from Human Resources was the "Change of Position" exemption at Staff Rule 6.21, Section III, paragraph 1.09(b): a staff member appointed at Level GE or below in the US does not become eligible for a MP if reassigned or promoted to Level GF or above in the US. The Applicant's case was that this facially neutral rule disproportionately impacts the remuneration of women at the WBG, who are more likely than men to reach Level GF and above by *internal* promotion rather than appointment, and that it is therefore indirectly discriminatory on grounds of sex.

The Application was filed in 2022. The Bank's preliminary objections were dismissed in GX (Preliminary Objection), Decision No. 687 [2023]. Proceedings were then stayed from 2023 for the production of relevant hiring and promotion data and the joint instruction of an independent expert. The stay was lifted in July 2025 without a joint expert having been instructed; each side ultimately put in its own statistical analysis, reaching opposite conclusions on the effects of the same rule.

The principle: indirect discrimination enshrined in WBAT jurisprudence

The WBAT's starting point was Principle 2.1 of the Principles of Staff Employment, under which the Bank "*shall not differentiate unjustifiably between individuals or groups within the staff*". It adopted the parties' substantially common definition of indirect discrimination: a situation "*where a facially neutral rule, criterion, or practice places one gender at a significant disadvantage compared with the other, unless that measure pursues a legitimate aim through means that are both appropriate and necessary*" [§55].

It then held at [§58] that the Bank "*does indeed have an obligation not to indirectly discriminate against its staff*", relying on the Bank's internal law, the WBAT's own jurisprudence, the jurisprudence of other international administrative tribunals, including the IMF Administrative Tribunal in Mr. SS, Judgment No. 2021-3.

Observing that neither it nor, apparently, any other IAT had yet developed a framework for assessing such a claim, the WBAT took cognizance of – without being bound by – the national jurisprudence surveyed by both parties, which it found to run along largely parallel lines [§60]. At [§61], it adopted a three-stage analysis:

1. identification of a facially neutral measure;
2. a demonstration of disparate impact on a protected group, which may be established by statistical or other empirical evidence; and
3. an assessment of whether there is a legitimate justification for the measure, achieved through reasonable and proportionate means.

Disparate impact

On the second stage of the analysis, the WBAT recorded that the parties had used different comparator pools in their respective data analyses, and that two reports were in truth answering different questions: the Applicant's analyzing the effect of the exemption; and the Bank's the purported cause of the alleged discrimination [§66]. It considered statistical evidence useful in demonstrating disparate impact and noted that any comparison must take account of the respective proportions of staff who are and are not affected by the measure at issue [§64].

It did not, however, resolve the conflict, finding instead that it was "*sufficient to assume arguendo that the Applicant has demonstrated evidence of disparate impact and to proceed to the next step in the analysis*" [§67]. The Applicant's analysis, and her challenge to the Bank's methodology, were sufficient for the WBAT to proceed on the footing that disparate impact *was* made out.

Justification

The third stage decided the case. The WBAT held that evaluating justification requires "*a balance between deference to the Bank's considered judgment in policy-making and careful scrutiny of the Bank's proffered justifications*" [§71]. It accepted that MP pursues legitimate institutional interests by attracting international candidates, maintaining equity between internationally and locally recruited staff, and encouraging geographic mobility [§72], and that the five-year eligibility period and the Bank's periodic reviews of the relevant policy evidenced a proportionate and considered approach [§73 & 76]. It also noted that the Applicant had proffered no narrower alternative, absent which it would not consider "*which alternative would have been best or more effective to attain the desired objectives*" [§76].

Comments

Despite the WBAT's findings on 'justification', the Tribunal came close to an alternative conclusion; at [§77] it observed "*that there are some inclusions and circumstances that seem incongruous with the 'Change of Position' exemption*": short-term consultants who have worked for the Bank in the US remain eligible for the premium if later hired to a GF-level position, as do external hires who, though not US citizens or permanent residents, have likewise been working in the US before appointment. Both cut against the Bank's stated rationale that the exemption reflects prior acclimatization.

GX is a landmark judgment for WBG staff, for those advising employees of international organizations, and international administrative law more generally. For the first time, the WBAT has confirmed that the WBG "*does indeed have an obligation not to indirectly discriminate against its staff*" [§59] and has adopted a three-stage framework by which claims of indirect discrimination will be assessed. Although the Applicant's claim ultimately failed, the WBAT proceeded on the basis that the "Change of Position" exemption has a disparate impact on the women affected by it and was critical of the Bank's failure to explain the rationale for the policy until these proceedings were underway. The framework adopted at [§61] is likely to be applied in future claims before the WBAT and may be of persuasive value before other international administrative tribunals considering similar issues.

At [§79] of its closing observations, the WBAT noted that the Bank's policy justifications "*were not explained to the Applicant, despite her repeated and persistent requests for a rationale, until the present proceedings*", and that the Bank "*could have been more forthcoming and transparent in its explanations*".

At [§80], in deciding that a contribution to the Applicant's costs was warranted, the WBAT found that her efforts in raising this matter of first impression "*have presented the Tribunal with the opportunity to recognize the concept of indirect discrimination and to provide clarity on an issue which has long been of particular interest to many staff of the organization*".

The Application was dismissed, and the Bank was ordered to pay half of the Applicant's legal fees and costs.

The current WBAT judges are nationals of the following WBG member states: US, Liberia, Canada, Brazil, Germany, Philippines, and France. The WBAT's decisions are final and binding. Read the full judgment here.

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