Procedural Requirements in Staff Misconduct Cases: The Evolving Approach of the African Development Bank Administrative Tribunal

*Eric P. LeBlanc**

Abstract

With specific reference to staff misconduct cases, this chapter examines, with examples from its case law, how the African Development Bank Administrative Tribunal (AfDBAT) addresses arguments of procedural irregularities and violation of due process. The AfDBAT, in determining whether an irregularity exists or not according to the applicable rules and principles, takes into consideration elements such as the prejudice sustained by an applicant and the fairness of the process. When it determines that an irregularity exists, the AfDBAT takes into consideration the seriousness of the irregularity or other due process violation in deciding whether the decision to impose the disciplinary measure should be vitiated or sustained and whether the procedural irregularity or other due process violation should lead to the award of damages.

1 Introduction

International organizations depend on their staff members for the delivery of their important mandates. In so doing, the administration of employment relations causes international organizations to regularly make employment-related decisions. One type of decision affecting the employees of intergovernmental institutions that is frequently challenged before international administrative tribunals is the imposition of disciplinary measures on staff members who are found to have committed misconduct. Grounds commonly used to legally challenge disciplinary measures include procedural irregularities and violation of due process. Although the various administrative tribunals of international

* Eric P. LeBlanc, Chief Legal Counsel, Administrative Affairs Division, Office of General Counsel and Legal Services of the African Development Bank (AfDB), e.leblanc@afdb.org. The views expressed in this chapter are those of the author and do not necessarily represent the views of the AfDB.

organizations will generally recognize the principles that procedures should be followed and due process should be respected, the application of such principles by the tribunals may vary.¹

Following this introduction, this chapter will begin by briefly presenting the African Development Bank Administrative Tribunal (AfDBAT) and the legal framework within which it operates (Section 2) so as to better understand the Tribunal's case law. Then, Section 3 of this chapter focuses on the approach taken by the AfDBAT when applicants raise arguments of procedural irregularities or violations of due process in cases of staff misconduct. The chapter uses the case law of the AfDBAT to illustrate the Tribunal's early recognition of the principles of respecting proper procedures and due process and how it developed its own jurisprudence regarding those principles over the years. Lastly, Section 4 presents some overarching observations and conclusions.

2 Legal Basis and Background to the African Development Bank Administrative Tribunal

The Board of Directors of the African Development Bank² established the AfDBAT and adopted its Statute on 17 July 1997³ and appointed the AfDBAT's first judges on 16 December 1997.⁴ The Statute of the Administrative Tribunal of the African Development Bank (Statute) came into force on 1 January 1998.⁵ The AfDBAT held its first session in July 1999 and, as of its latest session in April 2019, has issued 131 published decisions.

The AfDBAT is composed of six judges who must be nationals of member States of the AfDB at the time of their appointment.⁶ Although the Statute's requirement regarding diversity is limited to prohibiting that two judges be nationals of the same State,⁷ historically, the Board of Directors appoints the six judges from among the 'six regions'⁸ recognized by the AfDB to ensure balanced geographical representation. The Board, in selecting judges, also takes

¹ Powers 2018, 115–120.

² Agreement Establishing the African Development Bank.

³ AfDB, Board of Directors Resolution B/BD/97/11.

⁴ AfDB, Board of Directors Resolution B/BD/97/18.

⁵ Statute of the AfDBAT, art XVII.

⁶ *Ibid.*, art VI (1).

⁷ *Ibid.*

⁸ The six regions consist of: Western Africa, Southern Africa, Eastern Africa, Northern Africa, Central Africa and Non-Regional Member States.

into account diversity of gender, legal traditions and language.⁹ The judges must be persons of high moral character who possess the qualifications required for appointment to high judicial office or are jurisconsults of recognized competence.¹⁰

According to the Statute, the applicable law before the AfDBAT shall be “the internal rules and regulations of the Bank, and generally recognized principles of international administrative law concerning the resolution of employment disputes of staff in international organizations”.¹¹ The AfDBAT hears applications contesting ‘administrative decisions’¹² that affect staff members’ conditions of employment, after exhaustion of the Bank’s internal recourse mechanism¹³ and hears appeals of staff members contesting disciplinary measures imposed on them.¹⁴

3 Review of the Case Law of the AfDBAT

This section chronologically reviews the case law of the AfDBAT in which applicants raised arguments of procedural irregularities or violations of due process in cases of staff misconduct, whilst identifying a succession of eras. The purpose of this is to: (i) underline how the AfDBAT first incorporated in its jurisprudence, as important principles, the requirement to follow proper procedures and to respect due process; (ii) show how the AfDBAT developed its approach to assess the existence of a violation of those principles; and (iii) demonstrate how the AfDBAT now proceeds when it determines the existence of a violation.

3.1 *Importance of the Principles of Respecting Proper Procedures and Due Process (1999–2005)*

Arguments regarding procedural violations and disregard of due process were raised by applicants in some of the earliest applications before the AfDBAT.¹⁵

9 The AfDB is a bilingual institution, with the two official languages being English and French.

10 Statute of the AfDBAT, art VI (1).

11 Ibid, art V (1).

12 Ibid, art II (1) (i).

13 Ibid, art III.

14 AfDB Staff Rule 102.09 provides, “A staff member against whom a disciplinary measure has been imposed shall have the right to appeal such a measure, and may lodge his/her appeal with the Administrative Tribunal within sixty (60) days of the date of the letter of notification of the disciplinary measure”.

15 ‘Due process’, in the context of disciplinary proceedings, broadly refers to the requirement that proceedings be fair and in accordance with the applicable rules and general

For example, in its first 20 judgments, the AfDBAT already dealt with arguments pertaining to the right to obtain assistance from former staff members in defense against disciplinary charges,¹⁶ to the denial of access to documents¹⁷ and to the denial of the opportunity to be heard and to defend oneself.¹⁸ In another early case, *M. A. B. v AfDB*, the AfDBAT, noting that the AfDB had not yet enacted rules for investigations and procedures preceding summary dismissal, decided that "The requirements to be complied with by the Bank must therefore be derived from principles of natural justice as evolved in the jurisprudence of international administrative tribunals".¹⁹

The AfDBAT indicated with clarity its position on the importance of due process in two judgments rendered on 1 December 2005, namely, *Mr. C. G. S. v AfDB*²⁰ and *Jenkins-Johnston v AfDB*.²¹ These two cases arose from similar facts. The AfDB offers its staff members an education benefit whereby it covers a portion of the school fees of staff members' children when certain conditions are met. One feature of the education benefit is that it can be paid in advance if a staff member provides evidence of registration in an acceptable school along with a pro forma invoice. In 2002, the AfDB engaged in an audit of the management of education benefits and, in the course of this audit, discovered that in both these cases, the staff members had each received an advance to cover school fees for their respective children, but that they failed to immediately inform the AfDB that their children had dropped out of university after the start of the school year. Both staff members were summarily dismissed.

In the first case, *Mr. C. G. S. v AfDB*, the applicant argued that due process was not complied with, claiming that they were not heard and that certain documents necessary for their defense were withheld. The disciplinary process followed was not the regular disciplinary process, which involves referring the matter to a disciplinary panel, but rather a summary dismissal which is applicable only for cases of 'serious misconduct'.²² The AfDBAT held as follows:

principles of law. As an example of such requirement incorporated in applicable rules, AfDB Staff Rule 101.02 (a) provides, "No disciplinary measure shall be imposed against a staff member unless and until he/she has been given the opportunity to answer the charges against him/her. The staff member shall be informed of the allegations against him/her by written notification".

16 AfDBAT, *Mr. I. U. I. v AfDB* 2000, para 2.

17 AfDBAT, *W. B. O.—O. v AfDB* 2001, paras 40, 42.

18 AfDBAT, *Mr. T. B. B. v AfDB* 2002, para 33.

19 AfDBAT, *M. A. B. v AfDB* 2001, para 23.

20 AfDBAT, *Mr. C. G. S. v AfDB* 2005.

21 AfDBAT, *Jenkins-Johnston v AfDB* 2005.

22 AfDB Staff Rule 101.02 (c).

The summary dismissal procedure is distinct and does not derogate from due process. The requirements that the Bank has been expected to observe derive from the principles of natural justice as evolved in the jurisprudence of international administrative tribunal[s]. In observing these principles, a staff member must be unequivocally be put on notice of the charges laid against [them]. [They] must also be given an unrestricted opportunity to exonerate [themselves] on charges laid against [them].²³

In that case, the AfDBAT found that due process was respected²⁴ and ultimately decided to reject the application on the merits, particularly because the applicant did not account for the money received and that they failed to disclose to AfDB that their child was no longer in school until after the conclusion of the audit.²⁵

In the second case, *Jenkins-Johnston v AfDB*, the applicant also argued that due process was not respected in that their case should have been referred to a disciplinary panel instead of being dealt with under the summary dismissal procedure. Mr. Jenkins-Johnston's situation was different than the one of Mr. C. G. S. in that Mr. Jenkins-Johnston, after realizing that they should have informed the AfDB about the change of status of their child, proceeded to inform the AfDB, recognized having committed an offence and started to reimburse the AfDB nine months before they were even informed of the education benefits' audit.²⁶ The AfDBAT sided with the applicant and decided that although the applicant did commit misconduct, the AfDB mischaracterized the offence as a 'serious misconduct' and nullified the summary dismissal and ordered their reintegration, stating that the usual disciplinary procedure should have been followed for regular misconduct.²⁷ The following quote from the judgment that underlines the importance ascribed to following proper procedure and respecting due process:

While understanding the highly appreciable and morally respectable reasons for Bank Management to severely reprimand punishable offences in order to prevent misconduct detrimental to the Bank's interests and the integrity of its staff, the Tribunal raises to an even higher level the principle of right to due process that fully guarantees the right to defence.²⁸

23 AfDBAT, *Mr. C. G. S. v AfDB* 2005, para 38.

24 Ibid., para 39

25 Ibid., para 43.

26 AfDBAT, *Jenkins-Johnston v AfDB* 2005, para 53.

27 Ibid., para 54.

28 Ibid.

This early jurisprudence clearly indicates that the AfDBAT was cognizant of the principles developed in the jurisprudence of other international administrative tribunals regarding procedures and due process and was keen to adopt them as part of its jurisprudence. This was expected considering Article V(1) of the Statute prescribes that the AfDBAT would apply “generally recognized principles of international administrative law concerning the resolution of employment disputes of staff in international organizations”.

3.2 *Flexibility rather than Strict Formality in Determining the Existence of a Violation (2006–2009)*

Although the AfDBAT took a strong stance on the importance of respecting the requirement to follow proper procedures and to respect due process, the AfDBAT has displayed, in its subsequent jurisprudence, a certain level of flexibility in determining the existence of a violation of procedures or of due process. The cases mentioned in this sub-section will illustrate that, instead of simply limiting its analysis to determining whether a procedural requirement was strictly followed, the AfDBAT takes into consideration the purpose behind that specific requirement in examining all the facts and circumstances of the case in order to determine if the purpose was met.

In *Mr. Ablassé Ouedraogo v AfDB*, the applicant, a special advisor to the AfDB President, was accused of leaking negative information to the press and was summarily dismissed on that basis.²⁹ The trigger for the dismissal was an article published in a popular publication criticizing the management of the AfDB. The information contained in the article led to the suspicion that the applicant was at the origin of a leak. The applicant was verbally informed that they were suspected to be responsible for the leak. The applicant reacted by sending back a memorandum describing the verbal accusation and denying any involvement. The applicant was subsequently summarily dismissed by a letter that simply informed them of their dismissal, but without any reference to specific facts or charges.

The applicant argued that the procedure followed was irregular because the letter of dismissal did not state the offence with which they were charged.³⁰ The AfDBAT acknowledged that the letter of dismissal did not state the factual basis for the dismissal. However, considering that the applicant himself documented in a memorandum the charges verbally levied against him, the AfDBAT held that “under these circumstances, it was not necessary to renew the points

²⁹ AfDBAT, *Mr. Ablassé Ouedraogo v AfDB* 2008.

³⁰ *Ibid.*, para 30; see AfDB Staff Rule 101.02(a) which requires that staff members be notified by written notification of allegations of misconduct.

at issue in writing”³¹ and found that “the guarantees of due process [...] were respected”.³²

The AfDBAT could have taken a more formalistic approach and considered that the letter of dismissal, in the absence of details of the charges and facts supporting a dismissal, does not meet the procedural requirements and therefore the decision is vitiated. Instead the AfDBAT considered that, although the purpose of the letter was to inform the applicant of the charges, the applicant was clearly aware of the charges since they documented them themselves.

In *Mr. S. S. M. D. v AfDB* an AfDB manager was accused of soliciting a commission from an AfDB supplier on a contract for the supply of photocopiers. After investigations, the applicant was summarily dismissed for serious misconduct.³³ The applicant submitted that they were denied due process because they were only given 10 days to respond to the charges against them, whereas Rule 101.03(b) of the AfDB Staff Rules requires that a staff member be given 14 days within which to respond. While acknowledging that the period to respond to charges given to a staff member in cases of summary dismissal should ordinarily be at least 14 days, the AfDBAT held that:

That said, in the particular circumstances of this case, the Tribunal is not persuaded that the brevity of the period provided to Mr. D. to respond to the charges against [them] compromised the fairness of these proceedings. Not only did [they] not request any additional time to respond or suggest that the time provided was inadequate, [their] response was actually provided five days before the expiry of the time provided to [them]. Obviously, in this case, no additional time was necessary.³⁴

Again, instead of taking a strict formalistic interpretation of the rules to decide that giving a shorter period to respond than the regulatory 14 days vitiates the process, the AfDBAT took into account the facts of the case in taking a flexible approach and determined that, in the circumstances of this case, the staff member being given a shorter period to respond did not compromise the fairness of the process.

³¹ AfDBAT, *Mr. Ablassé Ouedraogo v AfDB* 2008, para 30.

³² Ibid. On the merits, the AfDBAT ruled in favor of the applicant because “no proof whatsoever was proffered by the Respondent”.

³³ AfDBAT, *Mr. S. S. M. D. v AfDB* 2009.

³⁴ Ibid., para 50.

3.3 *Consequences of Violations of Proper Procedure or Due Process (2010–Present Day)*

In certain judgements issued after 2010, the AfDBAT determined the existence of a violation, but nevertheless did not rescind the challenged disciplinary measure. The AfDBAT took into consideration the particular facts of each case in order to determine what should be the appropriate consequence, if any, to procedural irregularities or violations of due process. The case law described below will show that the AfDBAT may maintain the validity of the challenged decision despite recognizing a serious breach of procedures.

K. M. R. v AfDB is an example where the AfDBAT declared that due process was not followed but decided not to rescind the termination and instead awarded damages as compensation for the violation.³⁵ Mr. K. M. R. was a new staff member still on probation when the AfDB was contacted by their country's authorities to pressure the applicant to provide income-related information to a court within the context of divorce proceedings brought against them. The applicant was ordered by the AfDB to comply with the request.³⁶ The applicant refused to comply and instead levied accusations of harassment against the AfDB. Although a disciplinary process was initiated, the applicant was ultimately terminated on the basis of non-confirmation of their appointment following probation.³⁷

The AfDBAT found that the applicant was not accorded due process since no disciplinary panel was established to investigate or consider allegations against the applicant. Instead, the applicant's contract was terminated without the applicant being afforded any opportunity to be heard. Having found that the process initiated by the AfDB in this case was clearly initially intended to be disciplinary in nature, it determined that the procedural safeguards guaranteed by the AfDB Staff Rules were not respected.³⁸ However, the AfDBAT indicated that:

Notwithstanding the procedural irregularities identified above, the Tribunal observes that the Applicant significantly contributed to the termination of his probationary appointment by stubbornly refusing to comply with official instructions and persisting in his combative and

35 AfDBAT, *K. M. R v AfDB* 2010.

36 AfDB Staff Regulation 3.10 states, "...privileges, immunities and exemptions are granted to staff in the interests of the Bank. Consequently, they do not excuse staff members from discharging their civic or private obligations or from observing the laws and police regulations of the host country".

37 AfDBAT, *K. M. R v AfDB* 2010, para 26.

38 Ibid., paras 32–33.

disruptive behavior. [They] must therefore blame [themselves] for what befell [them]. This did not exonerate the Bank from its obligation to grant the Applicant proper due process before terminating [their] appointment. However, in light of the conduct of the Applicant, the Tribunal will limit the remedy awarded to moral damages for the Bank's breach of procedure.³⁹

Two factually-related decisions issued in 2016, *B. O. v AfDB* and *E. O. v AfDB*, are examples of decisions where the facts overwhelmingly established the existence of the misconduct, but the AfDBAT, although it maintained the termination decision on the strength of the evidence, found the AfDB liable to pay damages because of the existence of procedural violations.⁴⁰ The facts of those two cases are virtually the same: both applicants were investigators in the AfDB department charged with investigating misconduct and sanctionable practices in projects financed by the AfDB. In the context of particularly sensitive sanctions procedures initiated against a company accused of bribery in an AfDB project, the law firm representing the accused company informed the AfDB that they had received two anonymous letters containing AfDB confidential information on the case, including the leaking of the strategy elaborated by AfDB's external counsel against the accused company. An initial screening identified the two applicants as likely suspects. The applicants were suspended with pay for 16 months pending the end of a lengthy investigation. The investigation determined that the two applicants were involved in the leak of information and in obstruction of the investigation. The applicants were subsequently dismissed after following the regular disciplinary procedure before disciplinary panels.

One of the arguments raised by the applicants to challenge their dismissal was with regards to the duration of their suspension. Rule 101.01(a) of the AfDB Staff Rules provides that a "staff member may be suspended from duty, pending investigation, for a period, which shall not exceed three [...] months but may be extended for not more than three [...] additional months to permit the completion of disciplinary proceedings". They argued that the failure for the AfDB to comply with the time limits provided for in the Staff Rules with regards to investigations and suspension should have the effect of vitiating the disciplinary actions.⁴¹ Since the judgments in *B. O. v AfDB* and *E. O. v AfDB*

39 Ibid., para 36.

40 AfDBAT, *B. O. v AfDB* 2016 and *E. O. v AfDB* 2016.

41 AfDBAT, *B. O. v AfDB* 2016, para 67; AfDBAT, *E. O. v AfDB* 2016, paras 21, 81–82.

contain very similar wording, we will only quote from the *B. O. v AfDB* decision to illustrate the AfDBAT's position regarding that argument:

The question to be determined by the Tribunal is the effect of the Bank's violation of Staff Rule 101.01(b) resulting in the suspension of the Applicant for a period of 16 months. The Tribunal has previously cautioned the Bank to respect statutory time limits and noted that its failure to do so could, in appropriate circumstances, lead to the setting aside of a decision taken out of time. (*S.A.C. v African Development Bank*).

[...].

In light of the gravity of the allegations against the Applicant and the weight of the evidence incriminating [them], the Tribunal has concluded that it is not appropriate to set aside the disciplinary action on the basis of undue delay. However, having regard to the prolonged suspension and the flagrant disregard by the Bank of the statutory time-limits, it is appropriate that the Tribunal award the Applicant a nominal amount of damages under this heading.⁴²

A recent case, *J. P. M. E. v AfDB*, is another example of a case where the AfDBAT identified a violation of due process but did not set aside the challenged disciplinary measures.⁴³ In that case, the AfDB accused the applicant of unlawfully using the travel card that was provided for the exclusive purpose of authorized missions. The applicant was found to have made numerous irregular cash withdrawals and payments with the travel card. When confronted with this accusation the applicant spontaneously admitted having misused the travel card. They also repeated this admission to the AfDB investigators and to the members of the disciplinary panel. The applicant was dismissed for misconduct. However, the applicant subsequently learned that the disciplinary panel heard the testimony of several other staff members, including their erstwhile supervisor. The applicant argued before the AfDBAT that they were not given the opportunity to challenge their testimony. The AfDBAT agreed with the applicant that they were not afforded an opportunity to challenge the testimonies before the disciplinary panel and indicated that,

[It] is concerned by the fact that the Disciplinary Panel received and reviewed evidence in the absence of the Applicant. The Applicant was not afforded an opportunity to rebut such testimony. This is a violation of the

⁴² AfDBAT, *B. O. v AfDB* 2016, paras 72, 74; see also AfDBAT, *E. O. v AfDB* 2016, paras 98, 101.

⁴³ AfDBAT, *J. P. M. E. v AfDB* 2018.

ordinary rules of due process and could amount to a fundamental breach. However, in the circumstances of this matter, where the Applicant has admitted to the contraventions with which [they have] been charged and was given an opportunity to explain [their] conduct before the Disciplinary Panel, there has been no material violation of his rights. In addition, having regard to the financial documents produced by the Bank, the evidence against the Applicant was indisputable. The Tribunal confirms the Disciplinary Panel's actions on this issue.⁴⁴

In that case, The AfDBAT rejected the application and did not award any damages for the violation of due process.⁴⁵

4 Observations and Conclusion

From 1999 to 2005, relying heavily on the jurisprudence of other administrative tribunals, the AfDBAT clearly considered that general principles of law can be elaborated and evolve in other administrative tribunals' jurisprudence and that such jurisprudence is relevant to it as a source of law. The AfDBAT clearly considered as important the requirement to follow proper procedures and to respect due process in cases of staff misconduct and proceeded in developing its own jurisprudence regarding arguments of procedural irregularities or violations of due process, building upon already established principles such as the respect of due process.

Between 2006 and 2009, the AfDBAT adopted a balanced approach to the issue of procedural irregularities and due process violation. Regarding procedural requirements set out expressly in AfDB rules, the AfDBAT did not approach procedural requirements in a dogmatic way but sought to understand the objectives behind the rules and made its determination based on whether the objectives have been met or not.⁴⁶

The examination of the case law developed in the latest era (since 2010 to the present day) presented in this chapter may raise the question as to whether the AfDBAT's strong statement in *Jenkins-Johnston v AfDB*, to the effect that it "raises to an even higher level the principle of right to due process",⁴⁷ has been contradicted by more recent judgments. Has the AfDBAT softened its stance regarding procedural irregularities and violation of due process in the last

44 Ibid, para 57.

45 Ibid, para 60.

46 See AfDBAT, *Mr. Ablassé Ouedraogo v AfDB* 2008 and *Mr. S. S. M. D. v AfDB* 2009.

47 AfDBAT, *Jenkins-Johnston v AfDB* 2005, para 54.

decade when compared to the earlier years of the Tribunal? Why has the AfDBAT maintained challenged disciplinary decisions in cases where it expressly recognized the existence of a violation of due process?

There is no contradiction between holding a principle to a high level and seeking to determine if a principle has been followed in spirit. The AfDBAT has in fact thus far shown consistency in its approach throughout its history—in determining whether a violation exists or not, it will always consider the overall fairness of the process followed and whether applicants have been offered the opportunity to be heard and to defend themselves.

The facts of each misconduct case brought before the AfDBAT differ, each case being unique. Although the AfDBAT has made it clear that due process is of paramount importance, this does not mean that any violation would automatically vitiate the whole disciplinary process and lead to automatic rescission of disciplinary decisions if the process was otherwise fair. When it makes a finding that there is a procedural irregularity or other violation of due process in a particular case, the AfDBAT then determines whether it is nevertheless possible to dispose of the case. If the violation has deprived the applicant from being heard or of being able to defend themselves, the AfDBAT will rescind the disciplinary decision like it did in *Jenkins-Johnston v AfDB*.⁴⁸

However, if the AfDBAT determines that the violation did not deprive the applicant of a defense, then the AfDBAT will examine the case on the merits and make the appropriate decision based on the evidence and the parties' arguments. At the same time, the AfDBAT generally awards damages to the applicant to compensate the prejudice caused by the violation, even in cases where the original disciplinary decision is maintained, as has happened in *B. O. v AfDB* and in *E. O. v AfDB*, discussed above.⁴⁹

The AfDBAT's balanced approach, which consists in assessing the fundamental fairness of the disciplinary process, does not negate or otherwise diminish the importance of due process. The AfDBAT's reluctance to automatically rescind a decision on the mere existence of a violation without first determining whether the violation actually affected the fairness of the process, is indicative of its concern with ensuring that justice be fully rendered in disciplinary matters, taking into account due process.

In conclusion, the AfDBAT's approach in misconduct cases amounts to answering the following questions: Has there been a violation of procedures or due process? If the answer is 'No', then the case is heard on the merits. If the answer is 'Yes', the following question must be answered: Was the process nevertheless fair, having allowed the accused to be heard and to present a proper

⁴⁸ AfDBAT, *Jenkins-Johnston v AfDB* 2005.

⁴⁹ AfDBAT, *B. O. v AfDB* 2016 and *E. O. v AfDB* 2016.

defense? If the answer to the second question is 'No', then the AfDBAT will set aside the decision on the basis that the violation amounts to a material violation of the accused's rights. If the answer is 'Yes', however, the AfDBAT decides the case on the merits, but also systematically decides on whether the violation justifies imposing damages on the AfDB to compensate the applicant for this violation.

Reference List

- African Development Bank, Board of Directors Resolution B/BD/97/11, 17 July 1997.
 African Development Bank, Board of Directors Resolution B/BD/97/18, 16 December 1997.
 African Development Bank, Staff Regulations.
 African Development Bank, Staff Rules.
 Agreement Establishing the African Development Bank (signed 4 August 1963, entered into force 10 September 1964) 510 UNTS 3.
B. O. v African Development Bank, AfDBAT Application No 2015/04 (2016).
E. O. v African Development Bank, AfDBAT Application No 2015/05 (2016).
J. P. M. E. v African Development Bank, AfDBAT Application No 2017/04 (2018).
K. M. R. v African Development Bank, AfDBAT Application No 2009/01 (2010).
M. A. B. v African Development Bank, AfDBAT Application No 2000/10 (2001).
Mr. Ablassé Ouedraogo v African Development Bank, AfDBAT Application No 2007/02 (2008).
Mr. C. G. S. v African Development Bank, AfDBAT Application No 2004/01 (2005).
Mr. Derris Jenkins-Johnston v African Development Bank, AfDBAT Application No 2004/02 (2005).
Mr. I. U. I. v African Development Bank, AfDBAT Application No 1999/07 (2000).
Mr. S. S. M. D. v African Development Bank, AfDBAT Application No 2008/01 (2009).
Mr. T. B. B. v African Development Bank, AfDBAT Application No 2000/09 (2002).
 Powers J S, 'The Evolving Jurisprudence of the International Administrative Tribunals: Convergence or Divergence?' (2019) 1 AIIIB Yearbook of International Law: Good Governance and Modern International Financial Institutions 108 <<https://brill.com/view/book/edcoll/9789004408326/BP000008.xml>> accessed 5 March 2020.
 Statute of the Administrative Tribunal of the African Development Bank (AfDB Administrative Tribunal) <https://www.afdb.org/fileadmin/uploads/afdb/Documents/Administrative-Tribunal/Statute_of_the_Administrative_Tribunal_-_MAJ.pdf> accessed 1 March 2020.
W. B. O.—O. v African Development Bank, AfDB Administrative Tribunal Application No 2000/08 (2001).