ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Appeal No. 774/2025

H

v.

Governor of the Council of Europe Development Bank

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JUDGMENT

4 June 2026

The Administrative Tribunal, composed of:

Paul LEMMENS, Chair,
Lenia SAMUEL,
Thomas LAKER, Judges**,**

assisted by:

Christina OLSEN, Registrar,
Dmytro TRETYAKOV, Deputy Registrar,

has delivered the following judgment.

INTRODUCTION

1. The purpose of this appeal is to contest the decision by the Council of Europe Development Bank (hereinafter "the Bank") not to act on the Invalidity Board's finding that the appellant's invalidity resulted from an occupational disease.

THE FACTS

2. The appellant was recruited by the Bank in April 2013 at grade A2/1 and confirmed in their post after completing their probationary period in April 2016.

3. The appellant was transferred for the first time in January 2018 on the recommendation of the Office of the Chief Compliance Officer, which had determined that the appellant's allegations of inappropriate conduct by their superiors were unfounded. As this first transfer did not prove satisfactory, the appellant was transferred again in November 2019 to another department of the Bank, where they remained in post until 30 June 2022, when they were placed on sick leave. This sick leave followed a meeting that had taken place the previous day, 29 June 2022, between the appellant and their line manager, which the appellant had found very distressing.

4. On 20 November 2023, Henner, the administrator of the Bank's insurance policy with Malakoff Humanis (hereinafter "the administrator" and "the insurer" respectively), received an application for the appellant's illness to be recognised as an occupational disease. This application was rejected by the administrator on 12 January 2024 on the ground that the illness was not on the list of occupational diseases recognised by the French social security system. The appellant contested this decision on 31 January 2024. The administrator replied on 2 February 2024 that there would be a further review of the case once the appellant had provided a medical certificate from their doctor.

5. On 15 February 2024 the appellant sent the administrator a work accident report referring to the meeting on 29 June 2022 with their line manager (see paragraph 3). They informed the Bank accordingly the same day.

6. The application for recognition of a work accident was rejected by the administrator on 12 March 2024 on the ground of failure to comply with the deadline for submitting such a claim.

The appellant contested this decision on 15 March 2024. The administrator's medical department then recognised the work accident, but only for the period from 29 June to 4 July 2022. The appellant subsequently sent the administrator and the Bank an amended medical certificate stating that all the sick leave they had been prescribed since 4 July 2022 was due to the accident that had occurred on 29 June 2022. On 24 April 2024, however, the administrator confirmed the decision to reject the claim, again on the ground of non-compliance with deadlines.

7. By letter dated 10 October 2024, the appellant contested this rejection with the scheme administrator's and the insurer's medical advisers, enclosing a medical report dated 25 June 2024 which concluded that the appellant was suffering from an occupational disease. The findings set out in the report were as follows (translation): "*This occupational disease is currently still progressing. Its onset can be dated to 25 March 2017 (…). To date, the clinical picture as a whole is evolving, severe and chronic. The condition has not yet stabilised and [the appellant] remains completely unable to perform any work, with a permanent partial disability (IPP) rate which, once the condition stabilises, (sic) not be less than 25%*".

8. By letter dated 10 February 2025, the Bank's human resources division (hereinafter "DHR") informed the appellant that the medical assessment ordered by the insurer had confirmed the administrator's decisions. The assessment report in question, dated 3 December 2024 and forwarded by the insurer to the appellant, read as follows (translation):

> "*It is not for me to comment on the decisions of social security agencies regarding the recognition of a work accident or occupational disease. The fact is, however, that the condition presented by [the appellant] is not on the list of occupational diseases and only the Regional Committee for the Recognition of Occupational Diseases (CRRMP) has the authority to rule on this matter, something it has not done to date. […] [The appellant] currently appears unfit to resume any kind of professional activity, even in an adapted, part-time role, either within their own organisation or in another job.*"

The DHR added that the maximum period for which salary would continue to be paid was 36 months, i.e. until the end of June 2025. The DHR also advised the appellant that, should the appellant continue to be unfit for work, they should apply to an invalidity board, which would determine whether they were permanently and totally unable to perform their duties.

9. In April 2025 the appellant sought to have their illness recognised as an occupational disease by a French social security agency. The agency declined to comment in view of the appellant's status as an international civil servant.

10. By letter dated 18 April 2025, the appellant submitted a formal request to the Bank's DHR to refer the matter to the Invalidity Board. At its meeting on 30 June 2025, the Board concluded by unanimous decision of its three members that the appellant was suffering from permanent invalidity which totally prevented them from performing their job within the Organisation or any duties corresponding to their experience and qualifications which may have been proposed to them by the Organisation (hereinafter "the Invalidity Board's first finding"). The Invalidity Board further concluded, by a majority of two votes to one, that this permanent invalidity was the result of an incident recognised by the Organisation as "falling within the scope of Article 14.2 of the Pension Scheme Rules and mentioned in the staff member's administrative file" (hereinafter "the Invalidity Board's second finding").

11. On 15 July 2025 the Governor of the Bank decided that, in line with the Invalidity Board's first finding, the appellant would receive an invalidity pension under Article 13.1 of

the Pension Scheme Rules with effect from 1 August 2025. With regard to the Invalidity Board's second finding, however, the Governor declined to act. On this point, his decision reads as follows (translation):

> "(…) this second finding is at odds with the applicable regulatory framework, which defines the Board's powers and remit.
>
> Instruction 13/2 of the Pension Scheme Rules provides that the tasks of the Invalidity Board are:
> (a) to ascertain whether a staff member is suffering from invalidity within the meaning of Article 13, paragraph 1.
> (b) when an incident is recognised by the CEB as falling within the scope of Article 14, paragraph 2 (work accident, occupational disease or public-spirited act), to decide to what extent the staff member's invalidity is the result thereof…;
>
> You submitted a claim for recognition of an occupational disease prior to the matter being referred to the Board, and on 10 February 2025 the Bank notified you of the findings made by the Insurer, which is competent to decide on such matters (paragraph 920.5.1.2 of the Staff Regulations) and which concluded that your state of health does not constitute either a work accident or an occupational disease. The Bank also informed the Board of the Insurer's decision prior to its meeting on 30 June 2025. Consequently, the Governor cannot rule at this stage on the possible application of Article 14.2 of the Pension Scheme Rules. Should you wish to contest the Insurer's findings, you should contact the Insurer in accordance with the procedures laid down for medical disputes, as set out in the Staff Regulations, bearing in mind that, given your status as a staff member and the Staff Regulations and Staff Rules applicable in the CEB, you are not affiliated to the French social security system and, as a result, are not subject to the mechanisms for recognition under French social security legislation."

12. The aforementioned decision by the Governor was notified to the appellant on the day it was adopted, i.e. 15 July 2025.

13. On 1 August 2025 the appellant retired and began drawing an ordinary invalidity pension.

14. In an administrative complaint dated 13 August 2025, the appellant contested the Governor's decision of 15 July 2025 on the ground that it disregarded the Invalidity Board's second finding.

15. The appellant's administrative complaint was rejected by the Governor on 12 September 2025 on the ground that it was inadmissible and ill founded. The rejection decision stated that it was on receiving the appellant's complaint that the Bank noted that the expert appointed by the insurer had not ruled on whether the condition qualified as an occupational disease (see paragraph 8). The decision rejecting the complaint informed the appellant that, consequently, a further medical assessment would be arranged by the insurer and that it was for the appellant, where appropriate, to contest the findings before an arbitrating doctor, in accordance with point 2.g of Appendix 1 to the Staff Regulations and Staff Rules on the Bank's medical and social system, before considering the usual avenues of appeal.

16. By letter of 20 October 2025, in response to a request for clarification from the appellant dated 29 September 2025, the Bank reiterated the reasons behind the aforementioned decisions of 15 July and 12 September 2025 and restated its view that it was for the appellant, where appropriate, to contest the findings of the additional medical assessment through arbitration.

PROCEEDINGS

17. The appellant lodged their appeal on 6 November 2025. The appeal was registered under number 774/2025.

18. On 7 November 2025 the Chair granted the appellant's request for greater anonymity than that normally afforded.

19. On 16 December 2025 the Governor submitted his observations on the appeal.

20. On 19 January 2026 the appellant filed submissions in reply.

21. On 18 February 2026 the Governor submitted a rejoinder.

22. On 24 February 2026 the Tribunal decided, at the request of the appellant, to dispense with an oral hearing in this case in accordance with Rule 15, paragraph 1, of the Tribunal's Rules of Procedure.

THE LAW

I. THE RELEVANT LAW

23. The relevant provisions of the Bank's regulatory framework read as follows:

- as regards the conditions under which an administrative decision by the Bank adversely affecting a staff member may be contested:

Staff Regulations
Article 14 – Grievance procedures

(…)
14.3. Staff members who consider that an administrative decision is prejudicial to their interest and conflicts with their terms and conditions of appointment, or with any pertinent provisions of the Staff Regulations, Rules, Instructions or Policies, may lodge a formal complaint with the Governor against the contested administrative decision adversely affecting them, provided that they have a direct and existing interest in doing so. (…)
14.4 The Governor's decision on the complaint (…) may be appealed to the Administrative Tribunal of the Council of Europe in accordance with the provisions of the Tribunal's Statute. (…)

Statute of the Tribunal
Article VII – Admissibility

7.1 An appeal shall be admissible only where the administrative decision which it contests is final and where the appellant has exhausted all remedies available under the Staff Regulations, in the prescribed manner and within the applicable time limits. The appeal brought before the Tribunal must raise in substance the same grievance as that in respect of which such available remedies were sought.
(…)

7.5 The appellant must have a direct and existing interest in challenging the contested decision throughout the whole duration of the procedure.

Article VIII – Manifest inadmissibility

If the Chair of the Tribunal considers that an appeal or a request for rectification, interpretation, revision or execution under Article 17 of the present Statute is manifestly inadmissible, this shall be set out in a reasoned report to the judges of the Tribunal called upon to sit. If no objections are raised within the time limit fixed by the Chair, the report shall be transmitted to the appellant without delay together with the notification that the appeal or request has been declared inadmissible.

- as regards the social security scheme for Bank staff:

Staff Regulations
Article 9 – Social security

9.1. The Governor shall establish a scheme of social security for serving and, where applicable, former staff, including provisions for covering health care expenses, temporary incapacity for work, disability, dependency and death, as well as benefits in the case of maternity, paternity or adoption. The Scheme shall be financed jointly by the Bank and staff.
9.2. The Governor shall determine in Staff Rules the benefits and risks covered.

Staff Rules

The CEB has established a medical and social system mandatory for serving staff members and optional for pensioners and former staff members (hereinafter the "BMSS").
In this respect, the Bank acts as the holder of a collective insurance policy with an outside insurance company (hereinafter the "insurance company") with the aim of insuring:
- cover in the event of permanent or total disability, or death;
- the maintenance of salaries in case of accident or illness;
- the reimbursement of medical expenses following an illness, a maternity or an accident.

Definitions

(…)
910.2. "BMSS" (Bank Medical and Social System): the Bank's own private insurance scheme providing for benefits under primary cover and complementary cover ("1st Euro") or complementary cover.
(…)
910.4. "Sickness": any organic or functional impairment of health insofar as it is duly certified by a doctor.
(…)
910.6. "Accident": any physical or mental harm resulting from the sudden effects of an external cause. Proof of the accident is the responsibility of the insured person or the beneficiaries of the benefits designated by the insured person, and any classification by another insurance company cannot be invoked against the insurer.
910.7. "Work accident, occupational disease": any accident which is caused by, or occurs in the course of, functions undertaken in the Bank and which causes physical or mental harm to a principal beneficiary in active service.
In particular, any physical injury due to a sudden external cause shall be regarded as accidental.
Work accidents shall also include accidents occurring during a staff member's usual journey to and from the usual place of work; when a staff member travels between the Bank's buildings; or when a staff member is travelling to or from an official destination or performing duties connected with an official journey (unless the journey has been interrupted for personal reasons unconnected with the staff member's duties). The journey must not have been interrupted, or a detour have been made, for personal reasons unconnected with the principal beneficiary's duties.
Occupational diseases caused by duties performed on behalf of the Bank (illnesses resulting from a succession of external events or a progressive effect linked to working conditions), which are recognised by the French Social Security scheme as occupational diseases in accordance with the table published by the National Research and Safety Institute (INRS) listing occupational diseases recognised under French legislation, shall count as work accidents.
Work accidents or occupational diseases shall include the further effects of an accident occurring, or an occupational disease contracted, while an insured person was performing their duties, even if these effects manifest themselves when they have left the Bank.

If problems arise with the interpretation of the principles relating to work accidents or occupational diseases, French legislation on accidents at work and occupational diseases, and the relevant French case law, shall apply by analogy.
(…)
920.5. Work accidents and occupational diseases
920.5.1. Procedure
920.5.1.1. Any work accident must be notified to Human Resources within 48 hours, unless circumstances make this impossible, specifying the detailed circumstance of the accident. The Director in charge of Human Resources shall, within 48 hours, transmit a declaration to the insurance company with which the staff member is affiliated, which shall assess whether the accident is work related and notify the staff member of its conclusions.
920.5.1.2. The Governor shall inform the staff member, when an enquiry and any necessary medical examinations have been carried out, of the decision to recognise the accident as a work accident, or of the reasons for any decision by the insurers not to do so.
920.5.2. Health care expenses and maintenance of salary
920.5.2.1. The health care expenses of treating the effects of a work accident or occupational disease, and of functional rehabilitation, shall be covered at 100% without any ceiling.
920.5.2.2. Staff members obliged to stop working due to a work accident shall be entitled to continued payment of their full salaries and allowances, and shall, if employed on a fixed-term contract, be entitled to extension of that contract until either their health is recognised as stabilised or they are declared disabled or, at most, up to the age of 65.
920.5.3. Disability as a result of a work accident or an occupational disease
920.5.3.1. In line with the benefits guaranteed by the French Social Security scheme, any staff member affiliated to the BMSS who, following a work accident or as a consequence thereof, suffers a permanent impairment or subsequent effects such that they cannot recover their former capacity for work, shall be entitled to an allowance from the day following the date of stabilisation of their condition.
920.5.3.2. Permanent invalidity shall be assessed according to the French Social Security scheme's criteria and within the limits of that scheme, on the basis of the degree of physical disability and the capacity to resume work. The invalidity shall be total where no resumption of work can be envisaged, and partial in all other cases.
(…)
920.6. Disability
Permanent and total disability
920.6.1. Capital sum
920.6.1.1. In case of permanent total disability, a capital sum shall be paid out in Euros by the Bank to beneficiaries or their legal guardian, as applicable. (…)

Appendix 1
Medical and social system: contributions and benefits

(…)
2. Benefits related to medical expenses
(…)
g. Disputes on medical matters
Any dispute arising between a principal beneficiary and the insurance policy or the Bank on a medical matter which has not been resolved by mutual agreement shall be settled by an arbitrating doctor appointed jointly by a doctor chosen by the beneficiary and a doctor chosen by the Bank or by the insurance company, as applicable.
(…)

- as regards the pension scheme for Bank staff:

Staff Regulations

Article 10 – Pension schemes
10.1. Staff members shall be affiliated to one of the Bank's Pension Schemes, financed jointly by the Bank and staff, in conformity with the Pension Scheme applicable to them: the Pension Scheme established by Administrative Council Resolution 1432 of 29 January 1999 or the Second Pension Scheme introduced by Administrative Council Resolution 1560 of 14 November 2013.

Staff Regulations

Appendix 2

Pension Scheme established by Administrative Council Resolution 1432 of 29 January 1999 and implementing instructions

Chapter III – Invalidity pension
Article 13 – Conditions of entitlement – Invalidity Board

1. Subject to the provisions of Article 2, an invalidity pension shall be payable to a staff member who is under the age limit laid down in the Staff Regulations and who, at any time during the period in which pension rights are accruing to him, is recognised by the Invalidity Board defined below to be suffering from permanent invalidity which totally prevents him from performing his job or any duties corresponding to his experience and qualifications which may have been proposed to him by the CEB.
2. The lnvalidity Board shall consist of three medical practitioners, the first two being appointed by the CEB and the staff member concerned, respectively, and the third one selected jointly by the first two. Cases shall be submitted to it by the CEB either on its own initiative or at the request of the staff member.

Instructions – Article 13

(…)
13/2 – Invalidity Board
Tasks of the Invalidity Board
(i) Subject to the provisions of Article 2, the tasks of the Invalidity Board are:

(a) to ascertain whether a staff member is suffering from invalidity within the meaning of Article 13, paragraph 1.

(b) when an incident is recognised by the CEB as falling within the scope of Article 14, paragraph 2 (work accident, occupational disease or public-spirited act), to decide to what extent the staff member's invalidity is the result thereof;

(…)

(…)
Meeting of the Invalidity Board
(vii) the Invalidity Board shall meet at the latest within 60 calendar days following the appointment of the third medical practitioner.
(viii) The Invalidity Board shall have at its disposal:

(a) an administrative file submitted by the Human Resources Department containing, in particular, an indication of the post occupied by the staff member in the CEB together with a description of his duties and of any duties proposed to him by the CEB corresponding to his experience and qualifications, so that the Board can give its opinion as to whether the staff member is incapable of carrying out those duties. This file shall also specify whether the application to be declared an invalid is likely to fall within the scope of Article 14, paragraph 2.

Before being forwarded to the Invalidity Board, the foregoing particulars shall be communicated to the staff member by the Human Resources Department for his written comments, if any, to be sent by him to the Human Resources Department within 15 calendar days following their receipt.

(b) a medical file containing the report presented by the medical representative of the party — the CEB or the staff member — that has asked for the Board to be convened, and, if appropriate, the medical report presented by the other party, as well as any reports or certificates from the staff member's medical practitioner or from practitioners whom the parties have consulted. This medical file shall also contain details of the length of absences of the staff member concerned which have provided grounds for the Board to be convened, as well as the nature of the disability on which the Board is asked to give a ruling All these reports, documents and certificates must be communicated to the three medical practitioners.

(…)
(xi) The findings of the Invalidity Board shall be determined by a majority vote. They shall be final except in the case of obvious factual errors.
Findings under Article 13, paragraph 1 or Article 14, paragraph 2
(xii) The findings of the Invalidity Board shall state:

– whether or not the staff member suffers from permanent invalidity which totally prevents him from performing his duties or any duties proposed to him by the CEB corresponding to his experience and qualifications.

– whether the invalidity results from an incident recognised by the CEB as falling within the scope of Article 14, paragraph 2 (work accident, occupational disease or public-spirited act);

– the date on which the disability became lasting; this date may be prior to the date of the meeting of the Invalidity Board.

(…)
13/3 – Decision of the Governor
Decision under Article 13, paragraph 1 or 14, paragraph 2
(i) ln accordance with the findings of the Invalidity Board and without prejudice to the competence of the Administrative Tribunal of the Council of Europe, the Governor of the CEB shall decide either:

> **(a)** to grant to the staff member concerned an invalidity pension under Article 13, paragraph 1, or Article 14, paragraph 2; this decision shall specify the date on which the pension takes effect; or (…)

(…)
Obvious factual error
(iii) In the event of an obvious factual error, the Governor shall again refer the case to the Invalidity Board.
Notification of the decision of the Governor
(iv) Within 30 calendar days of receipt of the findings of the Invalidity Board, the Governor shall notify his decision in writing, together with the findings of the Invalidity Board, to the staff member or former staff member.

Article 14 – Rate of pension

1. Subject to the provisions of Article 5, paragraph 3, the invalidity pension shall be equal to the retirement pension to which the staff member would have been entitled at the age limit laid down in the Staff Regulations if he had continued to serve until that age and without the need for a minimum of ten years' service under Article 7.
2. However, where the invalidity arises from an accident in the course of the performance of his duties, from an occupational disease, from a public-spirited act or from risking his life to save another human being, the invalidity pension shall be 70% of salary. In the event of invalidity resulting from a cause other than these, the invalidity pension provided for in this paragraph may not be less than the invalidity pension which would be payable under paragraph 1 of this Article.
(…)

Instructions – Article 14

(…)
14.2 – Work accident and occupational disease
For the purposes of Article 14, paragraph 2, reference shall be made to the Rules applicable in the CEB for the definition of the risks of work accident and occupational disease.

II. REQUEST TO ORDER THE PRODUCTION OF CERTAIN DOCUMENTS

24. Before it can rule on the admissibility of the appeal and examine the merits of the present case, the Tribunal is required to respond to the requests made to it by the Governor to adopt investigative measures pursuant to Article 10.5 of its Statute and Rule 7 of its Rules of Procedure:

- authorise the Governor to obtain from the insurer and the administrator all correspondence with the appellant concerning the recognition of a work accident or occupational disease, and to produce such correspondence in the context of these proceedings; or, failing that, order the insurer and the administrator to produce the said correspondence;
- invite the appellant not to invoke the confidentiality of the medical evidence relied on in their appeal, in particular the medical reports of 25 June 2024 and 3 December 2024 (see paragraphs 7 and 8 above);
- or, should the Tribunal deem it necessary or appropriate, arrange a medical assessment.

25. With regard to the investigative measures in question, the Tribunal considers that the proceedings before the Invalidity Board, and also before the Tribunal, have afforded each party the opportunity to present all the evidence necessary for the effective conduct of their defence. It further considers that it is itself in a position to rule on all the arguments, in fact or in law, raised by the parties, without having to adopt such measures.

26. In the light of the foregoing, the Tribunal dismisses all of the Governor's requests for the adoption of the aforementioned investigative measures.

III. THE PARTIES' POSITIONS

A. Admissibility

1. The Governor

27. The Governor considers that the appeal is manifestly inadmissible, or at the very least, inadmissible.

28. On the issue of manifest inadmissibility, the Governor submits that once the additional expert report commissioned by the insurer (see paragraph 15) has been drawn up, the appellant may, where appropriate, contest its findings through arbitration in accordance with 2.g of Appendix 1 to the Staff Regulations and Staff Rules – a point the Governor made to the appellant in his decision rejecting the administrative complaint. According to the Governor, it is only on completion of this procedure that the appellant may initiate, in respect of the administrative aspects, the usual remedies, namely an administrative complaint followed by an appeal to the Tribunal. As the appellant has not exhausted these remedies, the Governor asks the Tribunal to declare the appeal manifestly inadmissible pursuant to Article VIII of its Statute.

29. On the issue of inadmissibility, the Governor contends that, in any event, insofar as he has not yet ruled on the occupational origin of the appellant's invalidity, the contested decision is not final and the appellant cannot claim to have an existing interest in challenging it, but only a hypothetical future interest. The Governor adds that the situation would have been different had he decided not to follow the Invalidity Board's recommendation and rejected the definition of the appellant's illness as occupational and had he stood by that decision in his response to the administrative complaint, which was not the case.

30. The Governor stresses that, as soon as the Bank was able to do so, it took the necessary steps to arrange, without delay, a further medical assessment, so that the insurer could either refute or confirm its position in accordance with the applicable framework.

2. The appellant

31. The appellant maintains, for their part, that the appeal is admissible if it concerns an act adversely affecting them. They submit that this is the case with the contested decision, as it constitutes a refusal to act on the Invalidity Board's findings – in favour of the appellant – and to recognise the occupational origin of their illness and hence entitlement to a higher rate of invalidity pension.

32. In connection with their arguments regarding the merits of the appeal, the appellant adds that the findings of the Invalidity Board are valid and binding on the Bank, and that the Bank's position, namely that the Governor cannot rule at this stage on the possible application of Article 14.2 of the Pension Scheme Rules, is incorrect.

B. Merits of the appeal

1. The appellant

33. In their appeal, the appellant asks the Tribunal to set aside, firstly, the decision of 15 July 2025 by which the Bank held that it could not, as matters stand, rule on the possible application of Article 14.2 of the Pension Scheme Rules and, secondly, the decision of 12 September 2025 rejecting the administrative complaint against that decision. The appellant also asks the Tribunal to order the Bank to make good the damage specified below, and to pay the sum of 2 480.50 euros in costs.

34. In respect of pecuniary damage, the appellant requests that the Bank be ordered to pay the difference between the invalidity pension they have been receiving since 1 August 2025 and the pension they would have received had they been granted the benefit of Article 14.2 of the Pension Scheme Rules, namely 1 560 euros per month, plus interest for late payment.

35. As regards non-pecuniary damage, the appellant asserts that the contested decision, together with the Bank's breach of its duty of assistance in the context of the administrative proceedings to which the appellant was subjected, caused them uncertainty and anxiety, made all the more intense by their fragile state of health. They estimate this damage ex aequo et bono at 10 000 euros.

36. In support of their appeal, the appellant essentially relies on three grounds: they complain that the Bank (a) violated Articles 13 and 14 of the Pension Scheme Rules, (b) breached the duty of care, and (c) disregarded the co-ordinated nature of the Bank's Pension Scheme.

(a) First ground of appeal: violation of Articles 13 and 14 of the Pension Scheme Rules

37. The appellant submits that the contested decision, insofar as it defers ruling on the occupational origin of their invalidity on the ground that the insurer must first take a position on this matter, fails to comply with the applicable legal framework. The appellant considers that the Pension Scheme Rules do not provide that the occupational origin of an illness – and therefore of the invalidity – must first be recognised by the insurer in order to qualify for a higher rate of invalidity pension. The appellant states that it is because of this non-compliance with the regulatory framework that they refused to undergo the additional medical assessment proposed by the Bank (see paragraph 43 below).

38. In support of this ground of appeal, the appellant examines the relevant provisions of the Pension Scheme Rules, in particular Articles 13 and 14, and observes that at no point do these provisions refer to the fact, or indicate that, the outcome of the invalidity procedure under these *Pension* Scheme Rules is contingent on to the insurer's opinion, and thus on benefits under the Bank's *medical and social* system (hereinafter "the BMSS"). In the appellant's view, the only possible interpretation of the texts, having regard to the clear and unambiguous terms in which they are set out, precludes any interdependence or conditionality between the benefits under the pension scheme and the BMSS.

39. The appellant adds that on the Bank's reading of the texts, the Invalidity Board is effectively bound by the insurer's findings regarding the occupational origin of the illness,

something that runs counter to the spirit and purpose of the applicable rules. Not only does such an interpretation deprive the Invalidity Board of its power to rule fully and independently on medical matters, but it also disregards the binding nature of the Invalidity Board's findings on the Governor. The appellant further notes that there is no justification for linking the award of benefits under a pay-as-you-go (budgetised) scheme to an insurance scheme, nor for giving precedence to the provisions of the contract between the Bank and the insurer over the provisions of the Bank's own Staff Regulations.

(b) Second ground of appeal: breach of the duty of care

40. The appellant further submits that entrusting the insurer with exclusive authority to determine whether an illness is occupational, when the insurer has interests that diverge from those of staff members, constitutes a breach of the duty of care, whereby the Organisation is required to take the interests of its staff members into account when making decisions regarding their situation.

(c) Third ground of appeal: failure to recognise the co-ordinated nature of the Pension Scheme

41. Lastly, the appellant submits that the interpretation advocated by the Bank makes a nonsense of the co-ordinated nature of the Pension Scheme, which operates across several international organisations and cannot be dependent on a social security scheme that falls outside the scope of Co-ordination, namely the BMSS.

42. The appellant adds that, by preventing staff from having a clear understanding of their rights and obligations under the Pension Scheme Rules, the interpretation advanced by the Bank also breaches the principle of legal certainty.

2. The Governor

43. The Governor argues that he was not bound by the irregular findings made by the Invalidity Board in this case regarding the occupational origin of the appellant's invalidity. As this irregularity prevented him from adjudicating, he was right to propose a further expert assessment in order to rectify the mistake, an assessment which the appellant nevertheless refused to undergo.

44. Considering that the applicable framework and the above-mentioned principles have been complied with, he takes the view that the contested decision is lawful. In the unlikely event that the Tribunal should find that the appeal was not manifestly inadmissible or inadmissible, it must in any event declare it unfounded.

45. In the alternative, the Governor submits that in the unlikely event that the Tribunal should not consider his decision to be legally justified, the adversarial principle would require that he be provided with the documents which the appellant has cited in support of their application but which he has been unable to access for reasons of data confidentiality (see paragraph 24 above).

46. The Governor also requests that the appellant's claims for compensation be dismissed, on the ground that the damage claimed is hypothetical – the Bank has not yet ruled on whether the illness is occupational – and that the alleged non-pecuniary damage has not been duly

substantiated. In addition, he asks the Tribunal to dismiss the appellant's claim for reimbursement of costs insofar as their appeal is unfounded.

(a) Alleged violation of Articles 13 and 14 of the Pension Scheme Rules

47. The Governor argues that the Bank's medical and social system and its pension schemes, which provide for different types of benefits in the event of a work accident or occupational disease, form part of a coherent set of statutory and regulatory provisions and are interdependent. Just as the Invalidity Board's decisions regarding invalidity are binding on the insurer, which is required to pay the invalidity capital sum, so too the insurer's decisions concerning work accidents or occupational diseases are binding on the Invalidity Board, whose opinion determines the rate of pension payable by the Bank. In the Bank's view, this interdependence confers on each decision a binding and indisputable character and is inherent in the principle of legal certainty.

48. The Governor adds that such an interpretation is not only self-evident from the clear and unambiguous wording of the relevant provisions but is also consistent with the role and remit of the Invalidity Board, as set out in those provisions. The Governor argues that the Board's jurisdiction is limited to determining a staff member's state of invalidity and to establishing any link that might exist between that condition and a work accident or an occupational disease, provided that these have been previously recognised by the Bank and have been recorded as such in the staff member's administrative file submitted to the Board.

49. The Governor contends that the Invalidity Board has no authority to rule on whether an illness is occupational. He argues that a work accident or occupational disease may occur irrespective of whether the person is recognised as an invalid and gives rise to specific entitlements for the staff member, which are distinct from those linked to invalidity. He adds that benefits in the event of a work accident or occupational disease (medical expenses and a pension) are paid by the insurer and continue to apply after invalidity has been recognised, with the exception of the increase in the invalidity pension. The Governor also points out that the Invalidity Board has not provided the information necessary to enable the relevant benefits to be paid, as it did not specify the percentage of incapacity required to calculate compensation under paragraph 920.5.3 of the Staff Regulations, nor the date on which the occupational disease was recognised.

50. In the alternative, the Governor submits that if the Tribunal were to consider that the Invalidity Board was justified in ruling on the occupational origin of the appellant's illness, the Board's decision on that matter must be regarded as insufficiently reasoned. For in the Governor's view, the Invalidity Board could not override the insurer's opinion without setting out the reasons why it was unable to concur. To do that, it would have needed access to the file on which the insurer based its decision. Should the Tribunal deem it necessary to refer the matter back to the Board, the Governor refers to his requests for investigative measures (see paragraph 24 above).

(b) Alleged breach of the duty of care

51. The Governor submits that, given the insurer's expertise and resources, entrusting it with the task of assessing the occupational nature of an accident or illness is an essential mechanism for ensuring an impartial and technically sound analysis. He points out that this is a common practice, including at the Council of Europe, and one that is subject to procedural

safeguards designed to ensure impartial, balanced decisions concerning the recognition of the occupational nature of an accident or illness. The Governor therefore rejects the appellant's argument that the insurer's competence to classify a work accident or an occupational disease represents a breach of the duty of care.

(c) Alleged failure to recognise the co-ordinated nature of the Pension Scheme

52. The Governor refutes the third ground of appeal, observing that the "first" pension scheme to which the appellant is affiliated (the one adopted on 29 January 1999) is not a co-ordinated pension scheme, as the Bank is not part of the system of Co-ordinated Organisations. The scheme in question was adopted independently by the Bank's Administrative Council and was tailored to the Bank's specific circumstances, in particular where the scope of the scheme and its funding are concerned.

IV. THE TRIBUNAL'S ASSESSMENT

53. As a preliminary point, it should be noted that the purpose of this appeal is to ask the Tribunal to set aside the Governor's decision of 15 July 2025, in that it failed to give effect to the Invalidity Board's finding that the appellant's permanent invalidity resulted from an incident recognised by the Bank as falling with the scope of Article 14.2 of the Pension Scheme Rules. This decision was supplemented by the Governor's decision of 12 September 2025 rejecting the appellant's administrative complaint. These two decisions will be referred to collectively as "the contested decision" (see Administrative Tribunal of the Council of Europe (ATCE), Appeals Nos. 761/2024 and 762/2024, L. D. (I and II) v. Secretary General of the Council of Europe, judgment of 25 March 2025, §§ 86 to 88).

A. Admissibility

54. As regards the pleas of inadmissibility, including manifest inadmissibility, raised by the Governor (paragraphs 28 and 29), the Tribunal notes that these are closely linked to the merits of the dispute. They should therefore be examined at the same time as the merits of the appeal.

B. Merits

1. First ground of appeal

55. The Tribunal begins by noting that the first ground of appeal raises a question as to the interpretation of the applicable legal framework. This question must be resolved in the light of the principles of interpretation. It will be recalled that "it is a basic rule of interpretation that words which are clear and unambiguous are to be given their ordinary and natural meaning and that words must be construed objectively in their context and in keeping with their purport and purpose" (ATCE, Appeal No. 766/2024, L. D. (III) v. Secretary General of the Council of Europe, judgment of 24 June 2025, § 60 and cited case law).

56. In this case, the first ground of appeal essentially concerns the interpretation of the regulatory provisions defining the powers of the Invalidity Board. While the Governor contends that the Invalidity Board exceeded its powers in ruling on the occupational origin of the appellant's illness, the appellant, on the contrary, asserts that the Invalidity Board was fully

within its rights to rule on this matter, and that the Governor is bound by its findings on the occupational nature of the invalidity.

57. In applying the aforementioned rule of interpretation, the starting point must be the text of the relevant provisions: Articles 13.1 and 14.2 of the Pension Scheme Rules and the related instructions (Appendix 2 to the Staff Regulations and Staff Rules).

58. Article 13.1 of the Pension Scheme Rules provides that, subject to provisions which are not relevant for this issue of interpretation, "an invalidity pension shall be payable to a staff member who […] is recognised by the lnvalidity Board defined below to be suffering from permanent invalidity […]". Article 14.2 of the Pension Scheme Rules provides that "where the invalidity arises from an accident in the course of the performance of his duties, from an occupational disease, from a public-spirited act or from risking his life to save another human being, the invalidity pension shall be 70% of salary".

59. The "tasks" of the Invalidity Board are specified in Instruction 13/2 (i) on Article 13 mentioned above. This instruction provides, firstly (letter a), that it is for the Board "to ascertain whether a staff member is suffering from invalidity within the meaning of Article 13, paragraph 1 [of the Pension Scheme Rules]". Secondly (letter b), "when an incident is recognised by the Organisation as falling within the scope of Article 14, paragraph 2 (work accident, occupational disease or public-spirited act)", the Board must also "decide to what extent the staff member's invalidity is the result thereof". Instruction 14.2, on Article 14.2 mentioned above, merely provides that "[f]or the purposes of Article 14, paragraph 2 [of the Pension Scheme Rules], reference shall be made to the rules applicable in the CEB for the definition of the risks of work accident and occupational disease".

60. The parties disagree as to the meaning of the subordinate clause "when an incident is recognised by the CEB as falling within the scope of Article 14, paragraph 2 (work accident, occupational disease or public-spirited act)" in Instruction 13/2 (i) (b). In the Governor's view, such recognition is a matter for the insurer under the Bank's Medical and Social System ("BMSS"), something the appellant disputes.

61. The aforementioned Instruction 13/2 (i) (b) provides that the recognition in question is to be carried out by "the CEB", that is to say the Bank, and concerns the question of whether "an incident" falls "within the scope of Article 14, paragraph 2" on the higher pension rate in the event of occupational invalidity. There is no explicit reference in the text of this instruction to a prior decision by the insurer.

62. It is evident in this respect that, in accordance with Instruction 13/2 (viii) (a), the Bank's Human Resources Department is required to send the Invalidity Board an administrative file specifying, in particular, whether the "application to be declared an invalid is likely to fall within the scope of Article 14, paragraph 2" of the Pension Scheme Rules. The Tribunal is compelled to note that this provision likewise fails to make explicit reference to any prior involvement by the insurer. Instruction 13/2 (viii) (b) further provides for the submission of a medical file to the Board: mention is made of a report presented by the medical representative of the party – the CEB or the staff member - that has asked for the Board to be convened, and, if appropriate, the medical report presented by the other party, as well as any reports or certificates from the staff member's medical practitioner. Again, there is no mention of a report drawn up by the insurer's medical practitioner.

63. It follows from the foregoing that the wording of the aforementioned provisions cannot be construed as making the insurer's involvement a prerequisite for the Invalidity Board's competence in such matters.

64. A combined reading of the relevant provisions suggests, rather, that the recognition in question rests with the Bank and is administrative in nature. On this reading, the Bank's recognition does not involve a medical assessment but is intended to inform the Board about the legal scope of application – with the Invalidity Board retaining sole competence to assess the medical evidence.

65. On this reading, the reference in Instruction 14.2 "to the Rules applicable in the CEB for the definition of the risks of work accident and occupational disease" must therefore be understood as a reference to the definitions contained in the Bank's regulations. These definitions are set out in the section of the Staff Regulations on the social security scheme, specifically in paragraph 910.7. This provision is not precise and is itself open to interpretation. The Tribunal considers that the first subparagraph of paragraph 910.7 contains a definition of the term "work accident", and that the fourth subparagraph contains a definition of the term "occupational disease". Both definitions, moreover, are set out in very broad terms, which do not restrict such accidents or illnesses to specific types. The Tribunal is not aware of any other provision that would provide a definition of these terms; certainly it can see none in the section of the Staff Regulations on pension schemes.

66. No other reference, whether explicit or implicit, is made in the Pension Scheme Rules to the regulations governing the social security scheme. In particular, there is no mention of the procedure to be followed in the event of a work accident or occupational disease, as described in paragraph 920.5 of the Staff Regulations, which provides, in particular, that in these circumstances it is the insurance company that assesses whether the incident was work-related (paragraph 920.5.1). Once an employee has suffered permanent invalidity, the social security scheme (medical and social system) gives way to the pension scheme.

67. Nor is there any reference to the system for resolving disputes between a principal beneficiary and the administrator concerning medical matters, as set out in Appendix 1 on the "medical and social system" (2.g of Appendix 1 to the Staff Regulations and Staff Rules). The plea of inadmissibility raised for failure to exhaust the arbitration procedure referred to in the aforementioned provision is without legal basis, therefore, and must be dismissed.

68. Consequently, the Invalidity Board must first determine whether the staff member is suffering from invalidity, and secondly, if so, whether that incapacity is the result of a work accident or occupational disease, terms to be understood in accordance with the definitions set out in the aforementioned paragraph 910.7, or from a public-spirited act; the Board must also determine to what extent the incapacity is the result thereof. Verifying the existence of such a link requires a medical assessment. On the basis of, and in accordance with, the Board's findings, the Governor will either recognise the staff member to be suffering from invalidity and grant them an invalidity pension, increased where appropriate as stipulated in Article 14.2 of the Pension Scheme Rules, or not recognise the staff member as an invalid (Instruction 13/3, (i)).

69. In other words, it is the Bank which has the power to determine, by means of a regulatory decision, which "incidents" (accidents and illnesses) may be regarded as constituting work accidents and occupational diseases (or "as falling within the scope of

Article 14, paragraph 2", to quote Instruction 13/2 (i) (b)). It then falls to the Invalidity Board to decide whether the invalidity in question is in fact the result of such accident or disease. Lastly, it is for the Governor to decide what administrative consequences should attach to the Board's medical findings.

70. The Tribunal considers that the aforementioned interpretation is not only in line with the wording of the provisions at issue but is also in keeping with their purport and purpose. As regards their purport, these provisions are concerned solely with the procedure governing the determination of pension entitlements, for which the Bank is responsible, and not the procedure governing medical benefits to which staff members or pensioners may be entitled under the BMSS, and which are covered by insurance taken out by the Bank with an insurer. As regards the purpose of the provisions in question, they establish a framework for staff members with permanent invalidity, granting the Bank the power to take decisions of an administrative nature and a board made up of doctors the power to take decisions of a medical nature.

71. This interpretation is, furthermore, consistent with the case law of the Tribunal, which has stated in this regard that "it is for the Invalidity Board to decide whether [an] illness is of an occupational nature" (ATCE, Appeals Nos. 523–524/2012, Lintermans (I) and (II) v. Secretary General of the Council of Europe, judgment of 6 December 2012, § 42; ATCE, Appeal No. 673/2021, C (I) v. Governor of the Council of Europe Development Bank, judgment of 27 January 2022, § 85).

72. Turning to the facts of the case, the Tribunal notes that the Invalidity Board based its opinion on a file to which each of the parties was able to contribute such evidence as they considered relevant.

73. In exercising the powers thus conferred upon it, the Invalidity Board held that the appellant's permanent invalidity resulted from an incident falling within the scope of Article 14.2 of the Pension Scheme Rules. It reached this conclusion in the exercise of its discretion in medical matters, based on an assessment of the existing definitions and the medical and administrative evidence provided.

74. If the Bank was of the opinion that the Board's findings were tainted by an obvious factual error, it should have referred the matter back to the Board, as per Instruction 13/3 (iii).

75. In the absence of such a step, the Bank was bound to grant the increased invalidity pension under Article 14.2 of the Pension Scheme Rules, in line with the findings of the Invalidity Board (Instruction 13/3 (i)).

76. As regards the reasoning behind the Invalidity Board's findings, the Tribunal considers that, since these findings were based on medical aspects covered by medical confidentiality, they were not required to set out the medical reasons that led the Board to conclude that the invalidity resulted from an occupational disease recognised by the Bank. Furthermore, the Bank is in no position to complain of inadequate reasoning given that it was on a form provided by the Bank itself – a form that did not require a specific justification – that the Board recorded its findings.

77. In the light of the foregoing, the Tribunal cannot discern any breach of the applicable procedure or any other circumstance that would justify the Governor in deviating from the findings of the Invalidity Board.

78. The Tribunal finds that the contested decision thus had the direct effect of denying the appellant recognition of the occupational nature of their invalidity and, consequently, of entitlement to the higher pension rate provided for in Article 14.2 of the Pension Scheme Rules. In that sense, it constitutes an act adversely affecting the appellant, with detrimental legal consequences for them. The objection that no final decision has been made and that the appellant does not have an existing interest cannot be upheld therefore.

79. In view of all the foregoing considerations, the Tribunal concludes that the first ground of appeal is well founded. This finding is sufficient to set aside the Governor's contested decision insofar as it failed to follow up on the Invalidity Board's finding recognising the occupational nature of the appellant's invalidity.

2. Other grounds of appeal

80. Having reached this conclusion, the Tribunal does not consider it necessary to rule on the other grounds of appeal.

V. CLAIM FOR DAMAGES AND COSTS

81. As to the pecuniary damage, it will be for the respondent to draw the appropriate consequences from the annulment of the contested decision by recalculating the appellant's financial entitlements in accordance with the principles set out in this judgment, and to pay them the sums due as a result of the correction to the calculation of the invalidity pension.

82. As to non-pecuniary damage, throughout the proceedings to have their invalidity recognised and then the proceedings before the Tribunal, the appellant has been in a state of uncertainty as to the classification of their medical condition and their associated entitlements, bearing in mind that the rate of their invalidity pension differed substantially depending on whether or not their condition was recognised as work-related. This prolonged state of uncertainty, when the appellant was already vulnerable because of their disability, constitutes a distinct, non-pecuniary harm linked to the failure to recognise their invalidity, and supported by the medical certificate dated 5 November 2025 submitted by the appellant, and which justifies financial compensation in addition to annulment. Ruling on an equitable basis and having regard to the nature of the annulled decision, the particularly sensitive nature of the matter and the length of time for which the appellant was kept in a state of uncertainty as to the classification of their invalidity, the Tribunal orders the Bank to pay the appellant the sum of 2 000 euros by way of compensation for non-pecuniary damage.

83. Lastly, the appellant seeks the reimbursement of their costs and expenses, amounting to 2 480.50 euros. Bearing in mind the nature and importance of the dispute, the Tribunal awards this sum.

FOR THESE REASONS, THE ADMINISTRATIVE TRIBUNAL:

Rejects the Governor's pleas of inadmissibility and declares the appeal admissible;

Declares the appeal well founded and sets aside the Governor’s decision of 15 July 2025, insofar as it failed to give effect to the Invalidity Board’s finding that the appellant’s permanent invalidity resulted from an incident recognised by the Bank as falling within the scope of Article 14.2 of the Pension Scheme Rules;

Holds that the appellant is entitled to payment of the difference between the invalidity pension they have been receiving since 1 August 2025 and the pension they would have received had they been granted the benefit of Article 14.2 of the Pension Scheme Rules, plus interest at the statutory rate applicable from the date on which each monthly instalment was due, and leaves it to the Bank to calculate and pay the corresponding sums;

Orders the Bank to pay the appellant the sum of 2 000 euros for the non-pecuniary damage suffered by them;

Orders the Bank to pay the appellant 2 480.50 euros in costs and expenses.

Delivered on 4 June 2026, the French text being authentic.

The Registrar of the Administrative Tribunal	The Chair of the Administrative Tribunal
Christina Olsen	Paul Lemmens