

29 April 2025

Answers for the Inter-American Development Bank Group Administrative Tribunal Questionnaire on the subject of general principles

I. Identification methods

- 1) On what legal basis (written rule, implied power, etc.) does your tribunal recognise the applicability of general principles?

The Administrative Tribunal of the Inter-American Development Bank Group (the Tribunal) recognizes the applicability of general principles of law on the basis of an implied power derived from its Statute and Rules of Procedure. Although general principles are not expressly enumerated as sources of law in the Tribunal's governing instruments, their applicability emerges from the necessity of filling interpretative and normative lacunae in the Bank's international framework.

The principal provision guiding the Tribunal's normative framework is Article VI(3) of the Statute which provides that:

"In interpreting the terms of the employment agreements between the Bank or the Corporation and their respective Employees, and the terms and conditions of appointment, the Tribunal shall make decisions and pass judgments based on the Agreement Establishing the Bank or the Agreement Establishing the Corporation, as applicable, and the respective written and approved policies, the rules and regulations of their respective Boards of Governors and Boards of Executive Directors, the Staff Retirement Plans, and the personnel and administrative policies in force at the time of the alleged non-observance."¹

While the provision enumerates the internal written sources of law, it does not preclude the use of unwritten norms such as general principles of law. On the contrary, the exhaustive character of internal sources creates a normative vacuum in situations not foreseen by written texts, which the Tribunal must nonetheless adjudicate. In this context, general principles serve a gap-filling function and an interpretative role, enabling the Tribunal to ensure consistency with broader standards of International administrative law.

Furthermore, Article VI(2) of the Statute reinforces this interpretative autonomy by providing that:

"[T]he Tribunal shall not be subject to the laws or jurisprudence of any of the Bank's or the Corporation's member countries or any of their political or administrative subdivisions."²

¹ Statute of the Administrative Tribunal of the Inter-American Development Bank Group (IDB Group AT), Art. VI(3). Available at: www.iadb.org/tribunal.

² IDB Group AT Statute Art. VI(2).

The exclusion of national law as binding authority underscores the need for recourse to autonomous legal reasoning, where general principles recognized in international administrative and public law provide the normative basis for assessing legality, fairness and procedural integrity.

This demonstrates that the Tribunal considers general principles, despite not being set out in written form, as essential to ensuring the legitimacy of its reasoning and decisions. As such, their legal basis is not explicitly stated but derives from the Tribunal's institutional mandate to interpret its internal legal framework in light of broader, universally recognized standards of justice.

2) Does your tribunal make a distinction between “general principles of law derived from national legal systems” and “general principles of law formed within the international legal system”, and perhaps other principles (e.g. the general principles of international civil service law, etc.)? If so, which ones, for what reason(s) and what are the implications?

The Tribunal does not explicitly articulate a distinction between general principles of law derived from national legal systems and general principles formed within the international legal system in its Statute, Rules of Procedure or published jurisprudence. However, its practice clearly reflects the exclusion of national law as a source, and an exclusive reliance on general principles that arise within the framework of international administrative law.

The Tribunal operates within a closed normative system. Pursuant to Article VI(2) of its Statute, it is not bound by the national laws or jurisprudence of the Bank's member countries. This provision confirms that national legal systems are not applicable to the Tribunal's decision-making.³ Instead, the Tribunal implicitly recognises general principles of international civil service law, which are shaped by (1) the jurisprudence of other international administrative tribunals;⁴ (2) the ethical standards and good governance norms;⁵ (3) fundamental procedural guarantees such as due process, and proportionality.⁶

For example, in Case No. 105, *FD v. IDB* (2023), the Tribunal did not rely on national law but grounded its review in fundamental safeguards, such as the right to an impartial investigation and the proportionality of disciplinary measures, thereby aligning with widely recognised general principles common to administrative tribunals.⁷

Thus, while the Tribunal does not adopt a systematic classification distinguishing general principles by origin (national vs. international legal system), it does rely on principles whose content reflects a transitional consensus, particularly those developed within the context of international administrative law.

3) How does your tribunal go about identifying a general principle?

a. By reference to national law? If so, which national law? Does your tribunal do a comparative law analysis, even if it is only a limited one? How are difficulties in translating legal concepts overcome?

The Tribunal does not directly apply or draw general principles from national legal systems, in line with Article VI(2) of its Statute, which states that the Tribunal “shall not be subject to the

³ IDB Group AT Statute, Art. VI(2), available at: www.iadb.org/tribunal

⁴ IDB Group AT, [Case No. 102](#) – *José Jesús Lovo Parrales v. IDB* (2021), para. 44.

⁵ Inter-American Development Bank, *Code of Ethics and Professional Conduct*, October 2012

⁶ IDB Group AT, [Case No. 51](#) – *Jorge Rojas Gaete v. IDB* (2005), para. 28 (due process and impartial investigation); [Case No. 105](#) – *FD v. IDB* (2023), para.54 and 93 (proportionality of disciplinary measures).

⁷ IDB Group AT, [Case No. 105](#) – *FD v. IDB* (2023), paras. 54–56, 105–110.

laws or jurisprudence of any of the Bank's or the Corporation's member countries."⁸ Accordingly, national laws are excluded as binding sources of law in the Tribunal's reasoning.

However, national legal materials, particularly case law from the United States, have on occasion been submitted by the parties and admitted into the record as documentary evidence. In such instances, these references serve a persuasive or illustrative function, especially when they support arguments regarding the existence or scope of a general principle.

For example, in Case No. 31, *Abrahams et al. v. IDB*, the Bank cited U.S. case law to support its interpretation of the concept of acquired rights, specifically referencing a decision from the U.S. Court of Appeals for the Eleventh Circuit to illustrate the legal consequences of contract termination.⁹ Similarly, in Case No. 56, *Valderramos v. IDB*, the complainant submitted a U.S. judicial decision to support the principle that exhaustion of remedies should not be required where it would be futile; this was accepted as part of the annexed documentation.¹⁰

In Case No. 104, *Vélez-Grajales v. IDB*, the complainant appended U.S. court decisions to support arguments related to employee classification and equitable access to benefits. These references, while not cited by the Tribunal in its reasoning, were admitted in the annexes and reflected an attempt to ground the claim in converging legal concepts drawn from national systems.¹¹ This reflects the occasional use of national legal sources to support arguments based on converging legal concepts, even within the Tribunal's autonomous normative framework.

b. By reference to your tribunal's previous case law?

Yes. The Tribunal frequently reaffirms principles through its own constant jurisprudence, thereby progressively shaping the scope and authority of general principles in its legal reasoning. For example, in Case No. 105, *FD v. IDB* (2023), the Tribunal drew upon its earlier case law to reaffirm the application of principles such as due process, good faith, and proportionality, without the need for express citations to external sources.¹²

c. By reference to the case law of other international administrative tribunals? If so, which ones? Is this reference explicit in the judgments handed down or does your tribunal refer to such case law only when preparing judgments?

Yes. The Tribunal relies on the jurisprudence of other international administrative tribunals, like the World Bank Administrative Tribunal (WBAT), when identifying and applying general principles of international administrative law. This comparative jurisprudence plays a key role in shaping the Tribunal's own standards, particularly in areas such as due process, proportionality, and the scope of judicial review in disciplinary matters.

For instance, in Case No. 102, *José Jesús Lovo Parrales v. IDB* (2021), the Tribunal adopted the analytical framework developed by the WBAT in *Koudogbo*, Judgment No. 248 (2001), to assess whether alleged misconduct was substantial and whether the disciplinary sanction imposed was proportionate.¹³ It also cited other WBAT cases, including *Gregorio*, *Carew*, and *Houdart*, to support its approach to the principle of proportionality and the discretion of the administration in disciplinary sanctions.¹⁴

These references demonstrate that the Tribunal considers the case law of peer tribunals not only persuasive but integral to the coherent development of general principles applicable to the

⁸ IDB Group AT Statute, Art. VI(2).

⁹ IDB Group AT, [Case No. 31](#) – *Abrahams et al. v. IDB* (2005), p. 5.

¹⁰ IDB Group AT, [Case No. 56](#) – *Patricia M. de Valderramos v. IDB* (2006), p. 8.

¹¹ IDB Group AT, [Case No. 104](#) – *Viviana Vélez-Grajales v. IDB* (2022), annexes.

¹² IDB Group AT, [Case No. 105](#) – *FD v. IDB* (2023), paras. 53–56, 105–110.

¹³ IDB Group AT, [Case No. 102](#) – *José Jesús Lovo Parrales v. IDB* (2021), para. 44.

¹⁴ *Ibid.*, paras. 113–115.

international civil service.

d. By explicit or implicit reference (please specify) to an international text, e.g. with regard to general principles relating to human rights? If so, which text(s)?

The Tribunal does not apply international human rights instruments directly as binding sources of law. However, it may refer explicitly or implicitly to general principles that reflect international human rights standards when interpreting the internal legal framework governing the organization.

This approach is particularly evident in Case No. 102, *José Jesús Lovo Parrales v. IDB* (2021), where the Tribunal found that the Bank had violated the applicant's right to due process by failing to ensure impartiality in the investigation and by applying an inadequate standard of proof in a disciplinary proceeding. The Tribunal held that such deficiencies "failed to provide the degree of balance and impartiality demanded by due process when allegations of serious misconduct are at issue," and that the applicable standard of proof must be consistent with that used by other international tribunals, such as the United Nations Appeals Tribunal and the WBAT.¹⁵

In Cases Nos. 51 and 55, the complaints referred to instruments such as the American Convention on Human Rights and the International Covenant on Civil and Political Rights (ICCPR). Although the Tribunal did not apply these instruments, their admission into the record¹⁶ and a dissenting opinion in Case No. 51 emphasized the relevance of international human rights standards to questions of due process,¹⁷ illustrating that such texts may nonetheless inform the Tribunal's understanding of fairness and due process as general principles.

e. By some other method?

Yes. The Tribunal also identifies general principles through the interpretation of the Bank's internal instruments, particularly its Code of Ethics, staff rules and broader institutional policies, which often express core values and expectations without formal codification in legal terms. In such instances, the Tribunal extrapolates general principles of conduct from the underlying ethical and institutional culture of the organization.

A clear example of this interpretative method is found in Case No. 102, *José Jesús Lovo Parrales v. IDB* (2021), where the Tribunal assessed the conduct of a supervisor in light of duties found in the Bank's Code of Ethics. Although the language of the Code refers to managerial "expectations" rather than legal obligations, the Tribunal gave normative values such as integrity, respect, and the duty to create a positive work environment.¹⁸

The Tribunal held that failure to act as a "role model" or to ensure a workplace where staff feel comfortable raising concerns may constitute a breach of duty, demonstrating that institutional values, though not explicitly legal norms, can form the basis for identifying binding general principles within the internal legal order of the Bank.

If more than one method is used, please number them in order of preference, if any.

No, the Tribunal does not formally rank the methods it uses to identify general principles.

There is no express hierarchy in the Statute, the Rules of Procedure, or the case law that dictates

¹⁵ *Ibid.*, paras. 125–127

¹⁶ IDB Group AT, [Case No. 55](#) – *Juan Carlos Lockhart v. IDB* (2006), paras. 74–77

¹⁷ IDB Group AT, [Case No. 51](#) – *Jorge Rojas Gaete v. IDB* (2005), dissenting opinion of Judge Jorge Darío Cristaldo Montaner.

¹⁸ IDB Group AT, [Case No. 102](#) – *José Jesús Lovo Parrales v. IDB* (2021), para. 107.

which source or method takes precedence over others.

4) Can your tribunal rely on a general principle proprio motu?

Yes. The Tribunal may, where necessary, found its reasoning *ex officio* on a general principle of law, even if it has not been invoked by the parties. This derives from the Tribunal's judicial function and the principle of *iura novit curia*, according to which the judge determines and applies the applicable law independently.

This approach is clearly illustrated in Case No. 102, *José Jesús Lovo Parrales v. IDB* (2021). In that case, the Tribunal applied the standard of "clear and convincing evidence" in disciplinary matters involving serious misconduct, even though this standard had not been invoked by the complainant. The Tribunal determined that the Bank's use of a lower evidentiary standard violated international due process norms and recommended that the internal Code of Ethics be revised accordingly. This judgment confirms the Tribunal's ability to invoke and apply general principles *ex officio* when such principles are necessary to ensure a fair and lawful outcome.¹⁹

II. Relationship with other sources

5) What legal value does your tribunal attach to general principles in relation to the various types of secondary legislation produced by the organisation (decisions adopted by organs of the organisation, including organs composed of states - e.g. General Assembly of the United Nations - or representatives of states - e.g. the Committee of Ministers of the Council of Europe -), in relation to the instrument establishing the organisation and in relation to other sources of international law? Why?

Although the Statute of the Tribunal does not establish a formal hierarchy of norms, the Tribunal has consistently applied general principles of law as a means of ensuring that all internal acts, whether derived from administrative decisions or regulatory instruments, are interpreted and applied in a manner consistent with fundamental legal standards.

Pursuant to Article VI(3) of its Statute, the Tribunal applies the Agreement Establishing the Bank, as well as personnel rules, policies, and regulations issued by its executive bodies.²⁰ In this context, general principles serve a corrective and interpretative function, ensuring that derived acts conform to overarching norms such as proportionality, good faith, and due process.

Where a derived act is inconsistent with a general principle, the Tribunal may decline to give it effect in the case at hand. For example, in Case No. 91 *Edgar Andrade v. IDB* (2016), the Tribunal reviewed the proportionality of a dismissal decision based on the Code of Ethics and determined that the sanction must align with principles of fairness and integrity.²¹ Likewise, in Case No. 102, *José Jesús Lovo Parrales v. IDB* (2021), the Tribunal ruled that the internal evidentiary standards used by the Bank violated due process, applying instead the principle of "clear and convincing evidence" and recommending that the internal Code be amended accordingly.²²

With respect to other sources of international law, such as human rights treaties or customary law, the Tribunal does not apply them directly. However, it may apply general principles that reflect such norms indirectly, especially where they represent universally accepted standards of justice within international civil service.

¹⁹ *Ibid.*, paras. 56, 125–127

²⁰ IDB Group AT Statute, Art. VI(3), available at: www.iadb.org/tribunal

²¹ [Case No. 91](#) – *Edgar Andrade v. IDB* (2016), paras. 16–21.

²² IDB Group AT, [Case No. 102](#) – *José Jesús Lovo Parrales v. IDB* (2021), para. 125-127.

6) Has your tribunal ever agreed to examine, if only by way of an objection, the legality of an act adopted by a body composed of states in relation to a general principle? If so, what were the implications, both legally (for the instrument in question) and politically (within the organisation)?

To date, the Administrative Tribunal of the Inter-American Development Bank Group has not been called upon to directly assess the legality of an act adopted by an organ composed of States, such as the Bank's Board of Executive Directors, in relation to a general principle of law. No case has presented a challenge that would require the Tribunal to review, even indirectly, the legal validity of such an act.

7) Could you give at least one example of a general principle in procedural matters, one example of a general principle in substantive matters (e.g. the principle of independence, the principle recognising acquired/essential rights, etc.) and one example of a general principle in matters relating to human rights protection, regarding the status of the principle in the hierarchy of norms?

The Tribunal applies general principles of law without establishing a formal hierarchy between them. However, their implementation often reflects an implicit recognition of their superior or supplementary normative value depending on the case. The following examples illustrate this in the Tribunal's case law:

- **Example of a general principle in procedural matters**

The Tribunal has affirmed the general principle of due process as central to procedural matters. In Case No. 103, *TD v. IDB* (2022), it found that issuing a Performance Work Plan before allowing the complainant to respond to a negative evaluation was a "serious procedural flaw."²³ It further held that performance reviews must be conducted fairly and without bias,²⁴ and that contract termination requires compliance with pre-established procedures and good faith.²⁵ These findings reflect the Tribunal's reliance on general principles of procedural fairness.

- **Example of a general principle in substantive matters**

In Case No. 104, *A.D. v. IDB*, (2022), the Tribunal applied the general principle of legal certainty and the protection of acquired rights. It held that the Administration could not retroactively alter a legal situation that had already created legitimate expectations for the staff members. The decision referred to the importance of predictability in administrative conduct, thereby invoking the principle of legitimate expectations, a well-established norm in international administrative law.²⁶

- **Example of a general principle in matters relating to human rights protection**

The IDB Group is not bound by international human rights treaties, and the Tribunal does not apply them directly. But the principle of non-discrimination is consistently upheld in the Tribunal's jurisprudence through the interpretation of the IDB Group's internal norms, including the Code of Ethics. The Tribunal gives effect to standards such as dignity at work, equality, and fairness in internal procedures, as grounded in the institution's legal framework. For instance, in Case No. 91, *Edgar Andrade v. IDB*, the Tribunal emphasized integrity and proportionality as key standards in assessing administrative sanctions, reflecting broader principles of fairness and equal treatment that are also recognized in international legal practice.²⁷

²³ IDB Group AT, [Case No. 103](#) – *TD v. IDB* (2022), para. 76.

²⁴ *Ibid.*, para. 80.

²⁵ *Ibid.*, para. 93.

²⁶ IDB Group AT, [Case No. 104](#) – *A.D. v. IDB*, Judgment of 9 September 2022, paras. 44–48.

²⁷ IDB Group AT, [Case No. 91](#) – *Edgar Andrade v. IDB*, Judgment of 28 July 2016, paras. 16–21.

8) What function(s) does your tribunal assign to general principles? For example, are they intended to:

a. fill gaps in written law?

In Case No. 102, *Lovo Parrales v. IDB*, the Tribunal found that the Bank's internal framework lacked a clear evidentiary standard for serious disciplinary proceedings. In the absence of such a rule, the Tribunal applied the "clear and convincing evidence" standard, drawn from comparative international administrative jurisprudence, to ensure a procedurally fair process.²⁸ The Tribunal not only applied this principle but also recommended amending the Bank's Code of Ethics, accordingly, thus confirming the gap-filling and normative corrective function of general principles in the absence of sufficient written law.

b. facilitate the interpretation of written provisions, e.g. by interpreting written provisions in the light of general principles?

In Case No. 104, *A.D. v. IDB*, the Tribunal applied the general principle of protection of legitimate expectations to interpret the application of administrative rules related to staff classification and contractual security. Although the written framework did not expressly prohibit retroactive adjustments, the Tribunal held that such action violated legal certainty, and that administrative conduct must be assessed in light of general principles.²⁹ This illustrates the interpretative function of general principles as guides to the understanding and fair application of internal texts.

c. ensure substantive rule of law (*Rechtsstaatlichkeit*), for example pursuant to general principles relating to human rights, including within international organisations? other?

In Case No. 102, *José Jesús Lovo Parrales v. IDB* (2021), the Tribunal held that the lack of impartiality in a disciplinary investigation and the use of an insufficient standard of proof violated generally accepted standards of due process. The Tribunal relied on international jurisprudence (UNAT, WBAT) and applied a higher standard, reinforcing the primacy of due process as a general principle. This demonstrates the Tribunal's commitment to material legality and fundamental fairness within the organization.³⁰

d. other?

In Case No. 91, *Edgar Andrade v. IDB*, the Tribunal invoked the principle of proportionality to evaluate the fairness of a dismissal decision issued under the Bank's Code of Ethics. Although the internal framework permitted dismissal for misconduct, the Tribunal reviewed whether the penalty was proportionate in light of the circumstances, thereby using a general principle to limit and review administrative discretion.³¹

III. Establishing the boundaries of principles

9) Where a general principle is applicable, how is it delimited? Have there been any cases where the general principle has been found to have been violated? Could you illustrate your answer, if applicable, with regard to the following areas:

a. human rights principles;

²⁸ IDB Group AT, [Case No. 102](#) – *José Jesús Lovo Parrales v. IDB* (2021), paras. 125-127.

²⁹ IDB Group AT, [Case No. 104](#) – *A.D. v. IDB*, Judgment of 9 September 2022, paras. 44–48.

³⁰ IDB Group AT, [Case No. 102](#) – *José Jesús Lovo Parrales v. IDB*, Judgment of 25 October 2021, paras. 125–127.

³¹ IDB Group AT, [Case No. 91](#) – *Edgar Andrade v. IDB*, Judgment of 28 July 2016, paras. 16–21.

In Case No. 91, *Edgar Andrade v. IDB*, the Tribunal found a violation of the principles of integrity, which is embedded in the Bank's Code of Ethics and Professional Conduct and directly tied to the general principle of truthfulness. The Tribunal observed that the complainant had failed to provide truthful information to the Bank in a context involving the removal and concealment of a gift, thus breaching a core value that underpins trust in international institutions. The Tribunal held that "there is no doubt whatsoever that the Complainant committed a breach of the Code of Ethics and Professional Conduct, and particularly one of its core values, integrity, of which truthfulness is an integral element."³²

b. procedural rights;

In Case No. 100, *BD v. IDB*, the Tribunal found a breach of the general principle of procedural fairness in the context of the complainant's probationary employment. The complainant was not afforded a fair opportunity to address criticisms of her performance nor to demonstrate her suitability for the role. The Tribunal held that "the Complainant's right to procedural fairness was not respected and that the due process requirements in this regard were not met". The ruling emphasized that even where employment decisions fall within managerial discretion, such discretion is bounded by fairness, transparency, and respect for due process.³³

c. duty of care, i.e. positive obligations for the competent authority;

In Case No. 101, *TS v. IDB*, the Tribunal noted procedural deficiencies and a lack of impartiality in an internal investigation, concluding that placing the complainant on administrative leave (AL) without granting her the opportunity to respond constituted an unlawful exercise of administrative discretion. The Tribunal found that "the decision to place the Complainant on AL, without granting her a fair opportunity to address the complaints made against her, under the circumstances, amounts to an unlawful exercise of administrative discretion". This highlights the Bank's positive obligation to treat staff with fairness and respect in sensitive procedures involving professional conduct.³⁴

d. acquired/essential rights;

In Case No. 96, *Jean-Marc D. Aboussouan v. IDB*, the Tribunal dismissed the complaint as untimely and declined to recognize the complainant's consultancy service as creditable for staff benefits. However, in a dissenting opinion, Judge Hugo Lorenzo argued that the complainant's long-term consultancy service, which mirrored that of regular staff, gave rise to acquired rights including retirement and severance benefits, and that these should have been protected. This dissent illustrates the principle that essential rights linked to employment conditions must not be retroactively denied where the substance of the work relationship supports them.³⁵

e. any other principle you wish to mention?

In Case No. 103, *A.B. v. IDB*, the Tribunal annulled a decision to place the complainant on a Performance Work Plan, and subsequently to terminate her contract, on the grounds that the process lacked transparency, objectivity, and impartiality. The decision-making process was found to be contrary to pre-established performance procedures, and the Tribunal emphasized the principles of proportionality, good faith, and transparency in administrative actions.³⁶

³² IDB Group AT, [Case No. 91](#) – *Edgar Andrade v. IDB*, Judgment of 2018, paras. 45–48.

³³ IDB Group AT, [Case No. 100](#) – *B.D. v. IDB*, Judgment of 2022, paras. 44–58-67.

³⁴ IDB Group AT, [Case No. 101](#) – *T.S. v. IDB*, Judgment of 2021, paras. 61–70.

³⁵ IDB Group AT, [Case No. 96](#) – *Jean-Marc D. Aboussouan v. IDB*, Judgment of 2017, Dissenting Opinion of Judge Hugo Lorenzo, paras. 1–10, pp. 9–10

³⁶ IDB Group AT, [Case No. 103](#) – *A.B. v. IDB*, Judgment of 2022, paras. 62–86.