

Decision, CASE No. 88- Costs Application
CASE NO. 88 IRENE GUIMARÃES ALTAFIN ET AL V. IDB

1. The Administrative Tribunal of the Inter-American Development Bank Group, composed of Judge Alberto Wray, President; Judge Edith Brown Weiss, Vice-President; Judge Desirée Bernard (participating through electronic means); Judge German Leitzelar V.; Judge Mónica Pinto; Judge Hugo Lorenzo; and Judge Shoschana Zusman Tinman, considered Counsel for Complainants' Costs Application following the procedures established in the Tribunal's Rules of Procedure.
2. On October 21, 2016, the Tribunal (or "IDBAT"), after hearing oral argument of the Parties on October 18, 2016, issued a judgement dismissing the request in its entirety.
3. On November 14, 2016, Counsel for Complainants filed a *Complainants' Costs Application Pursuant to Article IX(6) of the IDBAT Statute* ("Costs Application").
4. Invited by the Tribunal, on December 12, 2016, the Respondent filed comments on the Costs Application. On December 14, 2016, the President of the Tribunal, having heard both Parties, rejected the Costs Application.
5. On December 19, 2016, Counsel for Complainants filed a request to have the Costs Application reviewed by the full Tribunal.
6. Article IX(6) of the Tribunal's Statute establishes: "If the Tribunal awards in favor of an Applicant on the substance of an application in whole or in part, it may order that the reasonable costs incurred by the Applicant in the case, including the fees of Applicant's counsel, be totally or partially borne by the Bank or the Corporation, as applicable...."
7. Accordingly, the silence of the Tribunal in this respect should be understood as non-recognition of costs, as inferred from the above-cited Article IX(6) of the Statute;
8. The 2017 Judgment of the International Labour Organization's Administrative Tribunal Judgment No. 3758, P. (No.7) v. WHO, addressed the issue of covering costs when Applicant did not receive the appropriate information and relied in good faith on information that was inaccurate. The Tribunal awarded modest costs and moral damages. In a 1999 decision, Decision No. 214, the World Bank Administrative Tribunal awarded modest costs in connection with the jurisdictional phase of the proceeding, though it did not uphold the Applicant's claims on the merits. A review of other Tribunal jurisprudence indicates that costs have been awarded for the jurisdictional phase of the proceedings, but the relevant Tribunal Statute or Rules do not have the same provision as the one of the IDB Tribunal.
9. Also, it is not possible to reopen a proceeding that is already concluded, pursuant to the principle of *res judicata* (Art. 26.1 of the Rules of Procedures).

NOW THEREFORE

The Tribunal confirms the President Decision of December 14, 2016, and so the Cost Application is rejected.

(signature)

Alberto Wray
President

(signature)

Edith Brown Weiss
Vice-President

(signature)

Désirée Bernard

(signature)

German Leitzelar V.

(signature)

Mónica Pinto

(signature)

Hugo Lorenzo

(signature)

Shoschana Zusman Tinman

(stamp)

(signature)

Giuliana Canè
Executive Secretary

Washington, D.C., February 24, 2017