

Report on the IMF Administrative Tribunal 30th Anniversary Conference

November 19, 2025

Session 2: Recent Developments in International Administrative Law

Moderator: Judge Deborah Thomas-Felix, Judge of the IMF Administrative Tribunal (IMFAT)

Speakers: Judge Joan Powers, Judge of the European Bank for Reconstruction and Development Administrative Tribunal (EBRDAT) and GAVI Appeals Tribunal, Chair of the Appeal Board of the World Intellectual Property Organization

Judge Thomas Laker, Judge of the World Bank Administrative Tribunal (WBAT), NATO Administrative Tribunal, Administrative Tribunal of the Council of Europe (ATCE), and EBRDAT

Juliet E. Johnson, Registrar of the United Nations Appeals Tribunal (UNAT)

Judge Celia Goldman, Judge of the European Stability Mechanism Administrative Tribunal (ESMAT), former Registrar of the IMFAT

Judge Pablo Sandonato de León, President of the Administrative Tribunal of the Organization of American States (OASAT)

Jodi T. Glasow, Executive Secretary of the World Bank Sanctions Board

Judge Kieran Bradley, Judge of the IMFAT, Inter-American Development Bank Administrative Tribunal (IDBAT), and ESMAT

Judge Paul Lemmens, Chair of the ATCE

Rapporteur: Véronique Truchon-Lachapelle, Legal Officer, UNAT

The Session 2 speakers discussed recent developments in international administrative law, focusing on two topics: i) evolutions and possible reforms in international administrative law; and ii) emerging trends and human rights before international administrative tribunals (IATs).

The first six speakers, **Judge Joan Powers, Judge Thomas Laker, Juliet E. Johnson, Judge Celia Goldman, Judge Pablo Sandonato de León, and Jodi T. Glasow** addressed the first topic, namely **the evolutions and possible reforms in international administrative law.**

Judge Powers and **Judge Laker** first discussed whether IATs should be granted jurisdiction not only over challenges to individual decisions but also over regulatory decisions.

Judge Powers began by noting that the premise of the question itself may be misplaced, as major IATs already examine the regularity of changes to the employment framework rules, at least implicitly, when reviewing individual applications of those rules.

Judge Powers explained that when appointing staff, international organizations typically reserve the right to unilaterally change the terms and conditions of employment set out in staff policies and added that such decisions constitute the “regulatory decisions” to which she referred throughout her presentation. She noted that this raises the question of whether this reservation of authority is unlimited, which, she submitted, it is not. She emphasized that while tribunals are not competent to decide what type of employment framework would best serve an organization’s interests, they have recognized both the need and the duty to protect the legitimate expectations of staff regarding the stability of their employment terms. In balancing these interests, IATs may invoke general principles, such as the protection of acquired rights and the preservation of fundamental employment elements.

Judge Powers acknowledged that these principles can be vague and tautological. She noted that despite numerous claims of breaches of acquired rights or infringements of fundamental conditions raised before IATs, she found very few instances in which IATs actually invalidated regulatory decisions on

these grounds. She cited *L. Pinto v. IBRD*, WBAT Decision No. 56 (1988), in which a staff member successfully challenged a freeze of staff salaries. In that case, the WBAT found that the freeze violated the World Bank's consistent practice of making adjustments based on the cost of living.

In this regard, Judge Powers highlighted three unique aspects of the IMFAT Statute. First, she noted that the IMFAT Statute grants the IMFAT explicit authority to hear direct challenges to regulatory decisions within a prescribed time period after enactment, as well as in the context of individual cases, with no time limit in the latter context. She explained that this authority was granted to allow questions of legality to be resolved promptly, before decisions were implemented and applied to staff members. This "fast-track review" has proven particularly useful for examining annual changes to staff compensation methodology. If changes are found to infringe fundamental employment elements, the revised system cannot be implemented, thereby avoiding the need to unwind the consequences of applying invalid decisions retroactively.

Judge Powers observed that a second unique aspect concerns remedies. When a regulatory decision is invalidated through direct review, the IMFAT's ruling annuls the decision, meaning it cannot be applied and any prior reliance on it becomes null and void. This occurs without the need for class actions or multiple applicants.

Third, Judge Powers emphasized that the IMFAT Rules of Procedure call for notification to all staff members, and sometimes retirees, when new appeals are submitted on matters that may affect them broadly, allowing interested parties to intervene and participate in the proceedings.

Judge Powers summarized that major IATs have exercised inherent authority to review the legality of changes to employment frameworks in light of general principles of international administrative law. The key issue is not whether they have this authority, but how they exercise it, recognizing the need to balance the organization's legitimate interest in adapting its employment framework with the need

to protect staff rights against infringements of acquired rights or arbitrary unilateral changes in employment terms.

For his part, **Judge Laker** raised several questions to Judge Powers about the scope and implications of reviewing regulatory decisions. He first discussed whether, when applying general principles of international law, IATs should be entitled to set aside regulatory decisions, a power often reserved for constitutional courts. In other words, who should have the last word with respect to regulatory decisions and their legality? In this regard, he noted that reviewing regulatory decisions also implicates the balance of power within international organizations. While internal law is normally created by legislative bodies, such as the Boards of Governors or the United Nations General Assembly, IATs review administrative decisions against formally adopted provisions of internal law. However, pursuant to many IATs statutes, general principles of international administrative law are also to be applied, which, according to the hierarchy of norms, may prevail over internal law in cases of conflict.

Second, Judge Laker raised the question of the advantages and disadvantages of IATs reviewing regulatory decisions. From a practical perspective, he acknowledged that allowing direct judicial review of regulatory decisions, as practiced at the IMF, may be more convenient and efficient than implicit review, as it is faster and automatically applies to all staff members concerned. However, he observed that questions remain about whether declarations of illegality should have retroactive effect and what impact this would have on legal certainty within the organization concerned.

From a structural perspective, Judge Laker suggested that it might be preferable to limit judicial power to implicit review of regulatory decisions in order to avoid disturbing the balance of power among the bodies of international organizations. He noted that while both approaches provide for review of regulatory decisions, effectiveness and timeliness may favor direct review, but international

organizations and their member states might generally be reluctant to transfer such powers to the judiciary. The IMF represents an exception in this regard.

Regarding acquired rights as a criterion for reviewing regulatory decisions, Judge Laker questioned how the doctrine of acquired rights could be strengthened. He noted that while this doctrine plays an important role among the general principles of international administrative law, the criteria applied are legally vague and outcomes unforeseeable. International tribunals have rarely found that acquired rights were breached, and the doctrine is even less effective when interpreted merely as an aspect of non-retroactivity, as done by the UNAT. He questioned whether the doctrine of acquired rights is an effective tool for protecting staff members' rights, noting differences in interpretation among IATs that weaken its impact.

Judge Laker concluded by recommending improved communication among IATs as a first step toward strengthening the doctrine of acquired rights. He emphasized that IATs often lack sufficient knowledge about each other's jurisprudence.

Judge Powers responded by explaining that under the IMFAT Statute, the IMFAT is expressly empowered to apply the internal law of the Fund, including generally recognized principles of international administrative law concerning judicial review of administrative acts. In other words, the IMFAT Statute incorporates general principles of international administrative law into the internal law of the IMF, so there is no conflict between sources of law the IMFAT is expected to apply. However, she acknowledged that, even for the IMF, the final word belongs to the Board of Governors, which formally approved the IMFAT Statute and could abolish it. The IMFAT Statute explicitly excludes from its definition of regulatory decisions any resolutions adopted by the Board of Governors, recognizing that this body is responsible for establishing the IMFAT and determining the scope of its jurisdiction. As a practical matter, this issue has remained hypothetical, as the Board of Governors

operates at such a high political level that it is typically not involved in designing or revising Fund employment terms.

Regarding the effects of invalidating regulatory decisions through direct review, and whether such invalidation should have retroactive effect, Judge Powers explained that the IMFAT Statute anticipates rapid hearings of direct challenges to regulatory decisions, within three months of enactment. If declared invalid, the decision cannot be applied either prospectively or retroactively. If it had already been applied, those decisions would be considered null and void. She viewed this as a fair outcome in the context of direct review, as staff adversely affected by invalid decisions benefit from their annulment. She also observed that while regulatory decisions can be challenged at any time in the context of an individual case, remedies are more limited in that setting.

On strengthening the doctrine of acquired rights, Judge Powers endorsed the principle of cross-fertilization among IATs. She noted that while many decisions on acquired rights are vague and tautological, others are clearer and more transparent in articulating relevant factors to consider. She identified the 2018 decision *Perrin et al. v. Asian Development Bank (No. 3)* as providing a comprehensive list of factors to consider when staff members claim that rule changes violate acquired rights.

Judge Powers concluded by supporting Judge Laker's recommendation to improve communication among IATs, noting that such exchanges allow tribunals not necessarily to harmonize or unify their jurisprudence, but at least to remain aware of one another's work and identify best practices for addressing difficult issues.

Next, **Ms. Johnson** and **Judge Goldman** discussed **whether IATs, as tribunals of last resort, should consider having an appeals system.**

Drawing from her experience as the Registrar of the UNAT since 2022, **Ms. Johnson** provided information about the UNAT's experience in 2024, which is available in the Report of the Secretary-General on Administration of Justice at the United Nations (A/80/136, dated 11 July 2025).

Judge Goldman explained that typically an IAT is the sole judicial actor within a multi-layered dispute resolution system, exercising *de novo* authority to make findings of fact and conclusions of law. It therefore acts simultaneously as both a court of first instance and a court of last resort.

Taking as a premise that the United Nations' two-tiered judicial system offers advantages in fairness and efficiency, Judge Goldman outlined three options for consideration. The first option would be to build an appellate review body above the IAT. While creating an appellate tier for small international organizations may be impracticable, she suggested considering whether *ad hoc* bodies could be created to perform appeals functions. She also raised the idea of a global supreme court of international administrative law, while acknowledging the significant conceptual and practical difficulties involved.

The second option, she explained, would be to endow the IAT itself with authority to review its own decisions, an option that already exists to some extent but within limited parameters. She observed that such authority is fraught with legitimacy concerns and exists in tension with the principle of finality of IAT judgments. She also noted that self-review may be criticized for lack of impartiality.

The third option would involve creating a first-instance body below the IAT. Judge Goldman observed that IATs are familiar with this option, as most international organizations require staff to exhaust various internal review mechanisms before bringing cases to an IAT. However, she noted that these bodies are not courts, their decisions are not binding on either party, and they function only as recommending bodies.

Judge Goldman referenced *Mr. M. D'Aoust v. International Monetary Fund*, IMFAT Judgment No. 1996-1 (2 April 1996), which found that the IMFAT does not function as an appellate body reviewing Grievance Committee decisions, as its competence is not limited as that of a court of appeal; rather, it makes its own findings of fact and law. It concluded that the Grievance Committee is not a court of first instance; however, its record may be weighed as an element of the evidence before the Tribunal.

Judge Goldman noted that views about the degree to which Grievance Committees should be judicialized represent a pendulum that has been seen to swing back and forth over the years.

Judge Goldman concluded by raising the fundamental question of what constitutes fair and reasonable alternative means of addressing employment disputes in international organizations. She referred to the views adopted by the United Nations Human Rights Committee under Article 5(4) of the Optional Protocol to the International Covenant on Civil and Political Rights (communication No. 3581/2019) in *M.L.D. v. Philippines*, in which one complaint made by the applicant concerned the lack of appeal from the Asian Development Bank Administrative Tribunal procedure. Judge Goldman noted that it is an interesting question to think about whether fairness and judicial process require appeal. While the Committee did not definitively resolve this question, it noted that the author of the communication submitted to the Committee had access to internal review mechanisms, including Ombudsman and conciliation procedures, before resorting to the Tribunal, and that the Tribunal itself appeared to satisfy the requirements of a fair justice system.

Judge Sandonato de León and Ms. Glasow addressed the question of whether the jurisdiction of IATs should extend to a wider range of subject matters, such as issues of procurement, to become more akin to the jurisdiction of domestic administrative tribunals.

The moderator opened the discussion by asking why IATs limited their jurisdiction to employment-related disputes.

Judge Sandonato de León explained that this limitation has historical roots. He noted that at the time the League of Nations was created, its legal personality was uncertain. The doctrine was not unanimous on whether the League of Nations enjoyed legal personality — in fact, many were opposed to recognizing its legal personality. He explained that there was a sort of *modus vivendi* between the League of Nations Secretariat and the Swiss Federal Council, representing the Swiss government. The Swiss government was pushing for the League of Nations Secretariat to accept the jurisdiction of Swiss courts on all matters. Negotiations ultimately resulted in the establishment of the Administrative Tribunal of the League of Nations, whose jurisdiction was restricted to employment-related disputes due to the League of Nations' lack of immunity for other matters.

The moderator then asked whether IATs should now consider extending their jurisdiction to a broader range of subject matters.

Ms. Glasow responded by reframing the issue, noting that the real question is which problem such an expansion seeks to address. She observed that the challenge lies in the perceived gap – or absence – of mechanisms for resolving issues that fall outside the traditional staff-employer relationship, which could leave parties without reliable avenues for redress and, in turn, weaken organizational accountability while increasing reputational risks.

The moderator next inquired about the advantages and disadvantages of extending the jurisdiction of IATs beyond employment matters.

Judge Sandonato de León pointed out that the more fundamental question is whether there should be a different body that would have broader power to adjudicate all kinds of disputes, rather than expanding the jurisdiction of IATs themselves. He identified several challenges inherent in establishing such a judicial body, notably the difficulty of identifying suitably qualified candidates and ensuring coherent dissemination of its jurisprudence.

Judge Sandonato de León suggested that one potential advantage of creating a broader dispute resolution system could be a mechanism similar to the European Union (EU) preliminary ruling procedure, whereby judges of the EU Member States' courts can seek guidance from the Court of Justice of the European Union (CJEU) on questions of interpretation and validity of EU acts. However, he deferred to European experts on this point. Indeed, it could be envisaged that the executive body of an international organization requests the Administrative Tribunal to interpret a provision of the Staff Rules, or to rule on the validity or interpretation of a provision of the Staff Regulations, prior to the adoption of a particular decision, thereby avoiding further labor disputes while fostering sound inter-institutional cooperation and ensuring the uniform interpretation and application of the organization's law.

Ms. Glasow highlighted the World Bank Group's (WBG) model as an example of how international organizations can effectively manage and resolve non-employment matters without extending the jurisdiction of their IATs. She described mechanisms such as the World Bank Inspection Panel, the Dispute Resolution Service, the World Bank Group Access to Information Appeals Board, the World Bank Data Privacy Review Panel and the World Bank Group Sanctions Board, noting that they address a wide range of issues and demonstrate adaptability in addressing diverse concerns beyond traditional employment disputes.

In her concluding remarks, Ms. Glasow identified two takeaways. First, these mechanisms effectively fill the perceived gap left by IATs' limited jurisdiction. They reinforce the rule of law, strengthen accountability, and build trust among stakeholders by ensuring that affected individuals and communities have meaningful avenues for raising concerns and seeking redress. Second, she observed that expanding IATs' jurisdiction could raise additional questions – for example, whether the extension could overload the system or whether IATs possess the necessary expertise to address

complex commercial or contractual disputes. She concluded that evaluating the possible expansion of IATs' jurisdiction requires carefully balancing competing interests.

Judge Sandomato de León concluded that IATs' jurisdiction should not be expanded. Instead, specialized bodies, such as those developed by the WBG, should be created to address non-employment matters.

The next two speakers, **Judge Bradley** and **Judge Lemmens**, discussed the last topic of Session 2: **emerging trends and human rights before IATs**. Their remarks focused on assessing the extent to which litigants and judges rely on human rights law in international administrative law litigation.

Drawing on his experience as a former judge of the European Court of Human Rights (ECtHR), **Judge Lemmens** began by addressing whether IATs are obliged to apply human rights law, examining the case law of the ECtHR. He explained that human rights issues can reach the ECtHR through two distinct pathways: 1) a claim before a domestic court against an international organization, which is typically rejected as inadmissible due to the organization's immunity from jurisdiction – raising the underlying question of whether the right of access to a (domestic) court has been respected; 2) a complaint before the ECtHR by an unsuccessful complainant who first filed a complaint within the internal body of an international organization, alleging human rights violations (including by the IAT that delivered the contested decision) for which one or more Council of Europe Member States could be held responsible.

In the first scenario, Judge Lemmens emphasized that the immunity of an international organization (or a State) constitutes a limitation on the right of access to a court, but not necessarily a violation of that right, provided that it is justified by legitimate reasons. It falls to the ECtHR to examine: i) whether the immunity from jurisdiction pursues a legitimate aim; and ii) whether there exists a reasonable relationship of proportionality between the means employed and the aim sought to be achieved. On

the latter point, Judge Lemmens noted that in employment-related cases, the ECtHR assesses whether the applicant had “reasonable alternative means” to effectively protect his or her rights.

In analyzing whether an internal dispute-resolution mechanism qualifies as such an alternative, Judge Lemmens referred to the ECtHR’s jurisprudence on the right to an “effective remedy” under Article 13 of the European Convention on Human Rights (ECHR), which requires that the body adjudicating the dispute provide certain structural and procedural guarantees, though not necessarily a public hearing. It is also not necessary that the alternative means be of a judicial nature. In this regard, Judge Lemmens noted that the ECtHR has accepted that an appeal to an IAT or arbitration can constitute a reasonable alternative means. He concluded that the ECHR indirectly imposes some requirements on judicial and quasi-judicial mechanisms within international organizations.

Turning to the second scenario, Judge Lemmens explained that a complaint alleging violation of human rights lodged directly against an international organization would be dismissed as inadmissible because the ECtHR lacks jurisdiction over such entities. However, a complaint may be admissible if brought against a Member State. The ECtHR has held that while the ECHR does not prevent States from transferring sovereign powers to an international organization, States cannot completely absolve themselves from their Convention responsibilities. Therefore, Member States retain Convention liability in respect of their treaty commitments under the ECHR, albeit in a limited form.

Judge Lemmens referred to the 2005 ECtHR Judgment in *Bosphorus Hava Yollari Turizm Ve Ticaret Anonim Şirketi v. Ireland* (30 June 2005), establishing a presumption that States parties to the ECHR and members of an international organization comply with their human rights obligations as long as the relevant organization protects fundamental rights in a manner “at least equivalent” to that for which the ECHR provides. This presumption can be rebutted if, in a particular case, the protection of Convention rights is “manifestly deficient.” He concluded that the Member States are responsible for

ensuring the absence of structural lacunae in the international organization and may be held responsible before the ECtHR if there is a manifest insufficiency. Nevertheless, he observed that the ECtHR has not yet found a violation of human rights attributable to a State in this context.

Judge Lemmens then provided examples from the case law of the ATCE, which frequently relies on human rights guaranteed by the ECHR, including the right to respect for private and family life, the right to a fair trial, the right of access to a court, the right to non-discrimination, and the right to freedom of expression. He observed that the ATCE readily accepts that applicants may invoke human rights and interprets statutory provisions in light of human rights provisions. In exceptional cases, it has set aside decisions incompatible with human rights principles. Nevertheless, Judge Lemmens noted that in practice, applicants rarely rely on human rights arguments, and the ATCE has found violations in only a small number of cases.

For his part, **Judge Bradley** reflected on the question of why litigants rely on human rights arguments in international administrative litigation and what they seek to achieve in so doing.

Because of their employers' immunity, staff of international organizations do not get the benefit of the rights and protections which other workers do, rights and protections which have been developed over the last two centuries under the heading of "Labour law" or "Employment law" and/or via collective agreements between unions and management. While the staff rules and regulations of international organizations provide rights for staff and lay down obligations for the organizations as employers, they are not – nor do they aspire to being (the clue is in the name, international *administrative* law) – codes of employment law. IATs are often invited to fill in the blanks by taking account of the human rights of the staff members.

Judge Bradley noted that case law on this topic is quite vast, referring to a recent academic book, *The Law and Practice of International Administrative Tribunals*, Garrido Muñoz *et al.*, CUP, 2025

(Chapter 9), which identified 400 instances in which human rights have been referenced in the jurisprudence of IATs. In his view, even this figure is an underestimate, as the authors only take account of references to human rights instruments, whereas in practice IATs regularly engage with human rights issues without saying so explicitly.

He suggested that human rights arguments are invoked in international administrative law litigation essentially in three ways: as a shield (to challenge administrative decisions), as a sword (to upend decisions that have denied staff members something they claim they are entitled to), or as a magic wand (to obtain rights or legal protections not provided for in the staff regulations).

When used as a shield, particularly in disciplinary proceedings, Judge Bradley observed that human rights arguments tend to take two main forms: 1) the staff member alleges a breach of his or her due process rights, such as the right to an impartial investigation, the right to a hearing, or the presumption of innocence; and 2) the staff member argues that the conduct at issue is merely an exercise of his or her fundamental human rights, which the organization may not curtail.

As cases on the former are legion and presumably familiar to everyone in the room, Judge Bradley only gave a recent example of the latter, that is, the Judgment in Case No. 18 of the Appeals Board of the European Centre for Medium-Range Weather Forecasts. There, the staff member had relied on both his own right to freedom of expression and international humanitarian law to defend himself from a disciplinary sanction.

When used as a sword, Judge Bradley explained that claimants invoke human rights arguments to challenge and overturn decisions that have denied them benefits or entitlements. In this regard, he referenced two Judgments: 1) *Mr. "F" v. International Monetary Fund*, IMFAT Judgment No. 2005-1 (18 March 2005), and 2) *X. vs. ESA* (Case No. 141, 30 January 2023) of the European Space Agency Appeals Tribunal, as examples of this approach.

Judge Bradley then turned to cases where human rights arguments are used as a magic wand, *i.e.*, where they are invoked to obtain rights or protections not explicitly provided for in staff regulations, or even to override or force a modification to those rules. He cited the Judgments of the IMFAT in *Ms. “M” and Dr. “M” v. International Monetary Fund*, IMFAT Judgment No. 2006-6 (29 November 2006), and the ATCE in the *Verneau/Cucchetti Rondanini* cases as examples.

Judge Bradley further addressed the challenges IATs may face in applying human rights arguments. In particular, he observed that some IATs feel constrained by their foundational statutes to give effect to jurisdictional limitations rather than to the human rights arguments advanced by applicants. In this regard, he referenced the case of *Oglesby v. United Nations Joint Staff Pension Board*, Judgment No. 2019-UNAT-914, in which the Appellant sought survivor’s pension benefits before the UNAT for his same-sex husband, relying on the principle of equality enshrined in the Charter of the United Nations and in the Universal Declaration of Human Rights (UDHR). The Appellant argued that the denial of such benefits constituted discrimination on grounds of sexual orientation, family life, and marital status. The UNAT concluded that it did not have “the prerogative to apply the Charter of the United Nations or the UDHR directly, nor the power to strike down internal or subsidiary legislative provisions conflicting with the norms they enact.” In *D and Sweden v Council of the European Union* (Case C-122/99 P, EU:C:2021:304), the CJEU faced similar challenges in a case involving same-sex marriage benefits, with a similar outcome.

Judge Bradley concluded that human rights arguments play a crucial role in guiding the application of the staff regulations of international organizations, especially in areas where no developed system of employment rights or collective conventions exists. He emphasized that, in some instances, human rights arguments are invoked to supplement or even correct rules that international organizations implement, particularly where those rules have not kept pace with evolving social norms, such as the

recognition of same-sex marriage. He observed, however, that whether IATs are willing or able to meet this challenge remains a separate matter. Nevertheless, he concluded, in answer to the question posed by the title of the session, that it is reasonable to expect that both litigants and IATs will continue to rely extensively on human rights arguments in the future.