

Report on the IMF Administrative Tribunal 30th Anniversary Conference

November 19, 2025

Session 3: Immunities of International Organizations, Independence of International Administrative Tribunals, and the Selection of Tribunal Members

Keynote speaker: Judge Nassib G. Ziadé, President of the IMF Administrative Tribunal (IMFAT) and the United Nations Appeals Tribunal (UNAT)

Moderator: Judge Andrew K.C. Nyirenda, Judge of the IMFAT

Panelists: Professor Peter Bekker, Partner at Thompson Hine LLP, New York and Chair of International Law at the Centre for Energy, Petroleum and Mineral Law and Policy, University of Dundee, UK
Yan Liu, General Counsel and Director, Legal Department, IMF
Kathryn Nelson-Indre, Chair of the Staff Association Committee, IMF

Rapporteur: Salim S. Sleiman, International Law Fellow at the American Society of International Law (ASIL)

1. Introduction

Judge Nyirenda, the moderator, opened the final session of the conference by remarking that final interventions leave lasting impressions and encouraged speakers to make full use of the opportunity.

He reiterated that the session aimed at gathering the insights of the distinguished panelists on the evolving and interrelated issues concerning organizational immunity, tribunal independence, and governance safeguards.

2. Remarks by Judge Nassib G. Ziadé, President of the IMF Administrative Tribunal

Judge Ziadé opened his remarks by recalling a quote from the 17th-century French moralist Jean de La Bruyère, regretting the impression that “everything has been said” after thousands of years of human thought. He noted that this sentiment had been on his mind as he prepared his presentation, because the conference topic has been repeatedly examined at numerous international administrative law fora over the past two decades. He remarked that, despite the sense of repetition, the topic continues to re-emerge and attract sustained attention, as evidenced by discussions at recent events such as the 45th anniversary colloquium of the World Bank Administrative Tribunal.

Judge Ziadé emphasized that he was speaking in his personal capacity expressing that it was still a daunting responsibility.

2.1 Evolution of Organizational Immunity and National Court Scrutiny

Judge Ziadé noted that the immunity of international organizations from national court jurisdiction in employment disputes is continually evolving. Historically, several jurisdictions regarded organizational immunity as absolute, even where no internal mechanism for resolving staff disputes existed. This position, however, no longer prevails, as national courts increasingly require effective internal dispute resolution mechanisms as a precondition for upholding immunity. Judge Ziadé traced this shift primarily to developments in Europe, influenced by Article 6(1) of the European Convention on Human Rights (ECHR), which guarantees timely access to an independent and impartial tribunal.

Judge Ziadé illustrated this evolution through a series of decisions. He began by recalling the earlier position of the French courts, under which the jurisdictional immunity of international organizations prevailed even in the absence of an effective internal remedy.

Judge Ziadé then noted the significant shift that followed the European Court of Human Rights' 1999 judgments regarding the European Space Agency in *Waite and Kennedy v. Germany* and *Beer and Regan v. Germany*, in which the Court held that a “material factor” in determining whether immunity is permissible is whether individuals have reasonable alternative and effective means to protect their rights under the Convention. In those cases, the availability of the European Space Agency's internal Appeals Board led the Court to conclude that the “right to a court” enshrined in Article 6 of the ECHR was not disproportionately impaired and thus immunity could be upheld.

Judge Ziadé then explained how subsequent national decisions developed this principle further. He discussed the 2003 judgment of the Paris Court of Appeal in *Banque Africaine de développement v. M.A. Degboe* in which immunity was denied on the grounds that the internal grievance committee to which the employee's claim was submitted was purely consultative and lacked the attributes of a tribunal capable of providing effective remedies. The Court of Appeal's decision was subsequently affirmed by the French Court of Cassation. Judge Ziadé drew from *Degboe* two “simple but cardinal principles”: first, an international organization seeking to preserve its immunity before national courts must provide a dispute-resolution mechanism possessing genuine judicial authority—a merely consultative body will not suffice; and second, national courts must be able to satisfy themselves that the internal mechanism meets minimum standards of access to justice.

Judge Ziadé then turned to Belgian case law. He first referred to the 2003 judgment of the Brussels Court of Appeal in *Lutchmaya v. Secrétariat général du Groupe des États d’Afrique, des Caraïbes et du Pacifique*, which held that, in the absence of an adequate internal dispute-settlement mechanism, the right to a fair trial under Article 6 of the ECHR is undermined by the organization’s immunity from jurisdiction and execution.

He explained that subsequent judgments of the Brussels Labor Court went further by closely scrutinizing the procedures of internal appeals bodies. In *Siedler v. Union de l’Europe occidentale* (2003), the Court denied immunity after finding that the organization’s Appeals Board failed to provide the safeguards necessary for a fair trial; by contrast in *Crown Council v. Chapman, NATO et al.* (2005), the Court upheld NATO’s immunity after concluding that its Appeals Board satisfied the relevant requirements. In denying immunity in the case of *Union de l’Europe occidentale* (or the Western European Union), the Court listed a set of criteria for assessing whether a fair trial had been afforded. These were: the independence and impartiality of the appeals body; the judicial and adversarial character of its proceedings; its authority to render binding, reasoned decisions based on law; the parties’ right to appear before it; and the transparency of its proceedings and judgments.

Judge Ziadé then examined more recent cases, including a 2014 French judgment involving the Pacific Community and the relatively recent 16 January 2024 decision of the Paris Court of Appeal concerning the European Space Agency (ESA). In the former case, the Court of Cassation confirmed the Nouméa Court of Appeal stance of denying an organization’s immunity from jurisdiction if the organization did not provide a recourse of a jurisdictional nature that included guarantees of impartiality and equity. In the latter case, the Paris Court of Appeal equally

reaffirmed that immunity cannot be invoked where it leaves individuals without any effective remedy. Immunity, the Court of Appeal stated, is lawful only when paired with a real avenue for justice. Judge Ziadé noted that the case was under review by the French Court of Cassation. Similarly, in 2022, the Austrian Constitutional Court declined to uphold the immunity of the Organization of the Petroleum Exporting Countries (OPEC) because an adequate alternative avenue of justice was unavailable. This Austrian judgment led to the establishment of the OPEC's Appeals Committee.

Finally, Judge Ziadé noted that a 28 September 2024 report of the UN Human Rights Committee reaffirmed that international organizations must provide reasonable alternative means of dispute resolution for staff, and that, while internal procedures need not replicate state judicial systems, they must reflect objectivity, necessity, impartiality, and an absence of arbitrariness.

2.2 Risks of National Court Intrusion and Implications for Internal Justice

Judge Ziadé emphasized that the involvement of national courts in employment disputes is no longer a theoretical concern but a concrete and growing challenge. He stressed that organizations risk losing their immunity if they undermine the independence or functioning of their tribunals through interference or inadequate procedural safeguards. To minimize such risks, internal justice systems must manifest independence in both written law and practice.

2.3 Selection and Appointment of Judges

Turning to tribunal governance, Judge Ziadé discussed the appointment of tribunal members, noting the diversity of models across organizations. He observed that, although the appointment of tribunal members is, with few exceptions, entrusted to the organization's governing body, some

systems allow member states to propose candidates without internal input, while others rely on organizational committees involving management, staff representatives, and external experts.

Judge Ziadé noted that recourse to an external judicial body for the appointment of judges remains exceptional: among international administrative tribunals, the Council of Europe Administrative Tribunal provides a notable example, with its Chair and Deputy Chair selected by the European Court of Human Rights.

Rather than removing the selection process entirely from the organization, Judge Ziadé identified another approach aimed at balancing the different interests within the institution while introducing an independent external element. He referred to the practice developed at the World Bank, where advisory committees tasked with identifying suitable candidates for membership of the Administrative Tribunal have included representatives of management and the Staff Association together with an outside expert. Judge Ziadé also highlighted the model adopted within the United Nations following the reform of its internal justice system. In 2008, the General Assembly established the five-member Internal Justice Council, one of whose functions is to recommend candidates for appointment to the United Nations Dispute Tribunal and the United Nations Appeals Tribunal. Its composition is designed to balance institutional interests and independent legal expertise. Judge Ziadé regarded arrangements of this kind—whereby representatives of the principal institutional constituencies participate alongside independent external jurists—as capable of strengthening the integrity of the judicial selection process.

2.4 Length and Renewability of Judicial Terms

Judge Ziadé next addressed the length and renewability of judicial appointments, noting the competing considerations involved. On the one hand, non-renewable terms may enhance the appearance of independence of tribunal members. On the other hand, allowing tribunal members to serve for longer periods can contribute to the development of a solid body of doctrine and promote jurisprudential continuity within the tribunal. Judge Ziadé surveyed existing practices and observed that there is growing support among experts for appointing judges for long but non-renewable terms. He observed that the preference for non-renewability has recently found expression in the statutes of some international administrative tribunals.

2.5 Past and Future Employment with the Organization

Judge Ziadé then considered a related aspect of judicial independence: the relationship between tribunal membership and employment within the organization itself. He noted that tribunal statutes commonly prohibit current staff members from serving as tribunal judges, while some go further by excluding former staff members as well. Such restrictions address the risk that prior institutional ties might give rise to real or perceived concerns regarding a tribunal member's independence.

Safeguards also operate in the opposite direction by restricting the ability of tribunal members to accept employment with the organization after leaving judicial office. Judge Ziadé referred to several statutes imposing post-service waiting periods. He highlighted the stronger approach adopted by the World Bank Administrative Tribunal since 2001 and subsequently by the IMF Administrative Tribunal in 2009, under which tribunal members are permanently ineligible for employment with the respective organizations following their judicial service. Judge Ziadé

described these policies as a “healthy approach,” insofar as they help shield tribunals from real or apparent conflicts of interest.

2.6 Removal of Tribunal Members

Judge Ziadé also addressed the removal of tribunal judges, which he identified as another fundamental dimension of judicial independence. He emphasized that requiring the involvement of the other members of the tribunal before a judge may be removed provides an important safeguard against interference by the organization. Under the IMF Administrative Tribunal Statute, for example, the Managing Director may terminate a member’s appointment only where the other members unanimously consider that judge “unsuited for further service.”

Judge Ziadé contrasted these arrangements with the still stronger protection afforded under the Statute of the International Court of Justice, where the power of removal rests *exclusively* with the other judges. In Judge Ziadé’s assessment, this model provides the greatest assurance that the independent functioning of the court will not be subject to external interference.

He welcomed in this respect the World Bank’s decision to adopt a closely related model for its Administrative Tribunal, subject to one significant variation: removal requires the agreement of at least five of the Tribunal’s six other members rather than unanimity. For Judge Ziadé, the essential safeguard was that the determination remains entirely in the hands of a very strong majority of the tribunal itself, thereby insulating the removal process from institutional interference.

2.7 Independence of the Registrar and Tribunal Secretariat

Judge Ziadé turned his attention to the role of the registrar, describing the hybrid nature of the position. Although registrars are typically staff members of the organization, they function under the exclusive authority of the tribunal. While organizational leaders often appoint them after consulting the tribunal, Judge Ziadé argued that the renewal of the registrar's appointment should rest entirely with the tribunal, given the registrar's exposure to cases involving the organization and the potential for conflicts of loyalty. He added that registries must be protected from undue influence, including through exclusive tribunal control over personnel, administrative functions, and case management.

Judge Ziadé considered that the strongest means of safeguarding the registrar's independence, and enabling the registrar to perform his or her functions free from undue interference, would be for the registrar to be elected *solely* by the tribunal itself. He noted that this model was first adopted by the International Court of Justice and subsequently by the International Criminal Court, while acknowledging that those courts perform functions different from those of international administrative tribunals. More directly relevant, he highlighted the Bank for International Settlements Administrative Tribunal, whose Statute provides precisely this model for the selection of its Registrar.

2.8 Operational and Structural Autonomy

Judge Ziadé finally underscored the essential need for full operational independence and budgetary autonomy once the tribunal is constituted: security of tenure for judges, the tribunal's sole authority over its secretariat, confidentiality of deliberations, autonomy over judicial processes, and

adequate resources to perform its functions. Judge Ziadé further explained that genuine operational independence requires more than protection against overt attempts to influence individual judges or the tribunal as a whole. It also requires institutional safeguards ensuring that the tribunal's internal division of work remains confidential; that the tribunal retains sole responsibility for the management of its judicial activities; and that it exercises sole control over its secretariat, its staff and its budget, while remaining subject, as appropriate, to ordinary auditing requirements. These arrangements, in his view, are necessary to ensure that the independence formally guaranteed to a tribunal is equally respected in the practical conditions under which it performs its judicial functions.

3. Remarks by Professor Peter Bekker

Professor Peter Bekker began by expressing appreciation for the opportunity to participate in the panel marking the 30th anniversary of the IMF Administrative Tribunal. He explained that his remarks would focus on the legal foundations of international organization immunity and the independence of international administrative tribunals, drawing on the second edition of his book, *The Legal Position of Intergovernmental Organizations: A Functional Necessity Analysis of Their Legal Status and Immunities*, published by Brill Nijhoff in 2025.

3.1 Functional Necessity and the Legal Position of International Organizations

Professor Bekker described the functional necessity approach at the core of his analysis. According to this approach, the legal status and immunities of intergovernmental organizations are linked to the functions and purposes entrusted to them by their member states. Immunities exist not for the benefit of the organizations but to enable them to discharge their mandates effectively. He

emphasized that international organizations law is best summarized by the principle of speciality, which distinguishes international organizations from sovereign states possessing a general competence.

He noted that the International Court of Justice (ICJ) has repeatedly affirmed this key principle, including in its 1996 advisory opinion on the legality of the use by a state of nuclear weapons in armed conflict and in its most recent advisory opinion reaffirming the essential role of inviolability and non-interference in safeguarding organizational independence.

3.2 Trends in National Jurisprudence and Challenges to Immunity

Professor Bekker examined the two major trends shaping national court approaches to the immunities of international organizations. The first trend, largely visible in Europe, involves balancing exercises that weigh immunity against the human right to access to justice under Article 6 of the ECHR. He referenced recent European jurisprudence applying this approach to determine whether internal dispute resolution mechanisms provide adequate alternatives to national courts.

The second trend consists of assimilating organizational immunity to state immunity, particularly evident in the U.S. Supreme Court's 2019 decision in *Jam v. International Finance Corporation*, which applied restrictive state immunity standards to international organizations. Professor Bekker argued that this approach risks undermining the speciality principle, as international organizations are not sovereigns and have limited capacities and powers.

He referred to the ICJ's 2012 *Jurisdictional Immunities of the State* judgment, which cautioned against subjecting immunity to after-the-fact balancing exercises based on the circumstances of each case. Although that judgment concerned state immunity, Professor Bekker suggested that its

authoritative reasoning casts doubt on the practice of national courts conditioning organizational immunity on internal grievance mechanisms.

He further noted that courts in non-European jurisdictions, including Canada and the United States, have held that the absence of an internal grievance mechanism does not automatically justify denying immunity, illustrating the divergence in global approaches.

3.3 Risks of National Court Interference and the Role of Internal Justice

Professor Bekker discussed the implications of national courts potentially second-guessing organizational assessments of official activity or immunity claims. He referred to the ICJ's 1999 *Cumaraswamy* advisory opinion and the Court's recent reiteration that national courts may set aside an organization's initial determination of an agent's immunity or characterization of an activity as official only for "the most compelling reasons." He emphasized the risk of inconsistent interpretations across jurisdictions.

He supported earlier observations by Judge Ziadé regarding the importance of internal grievance mechanisms—including oral hearings and transparent processes—to pre-empt national court intrusion and to demonstrate that organizational immunity is deserved and justified. He concluded by reiterating that strengthening internal grievance mechanisms is essential to preserving both tribunal independence and organizational immunity in an evolving judicial landscape.

4. Remarks by Ms. Yan Liu, General Counsel and Director of the IMF Legal Department

Ms. Yan Liu opened her remarks by expressing her appreciation for the opportunity to participate in the conference celebrating the Tribunal's 30th anniversary. She stated that her remarks would

focus on two central themes: the importance of the IMF's immunities for its institutional independence and the essential role played by the Administrative Tribunal in upholding the rule of law within the Fund.

4.1 The Role of Immunities in Safeguarding IMF Functions

Ms. Liu emphasized that privileges and immunities are foundational to the effective functioning of international organizations, including the IMF. She recalled that nearly 50 years earlier, the U.S. Court of Appeals for the D.C. Circuit, in the *Broadbent* case, affirmed that immunity from legal process is essential to prevent national courts from interfering with the internal administration of international organizations. Without such immunity, organizations would face fragmented legal approaches across member states, threatening operational coherence.

She noted that the scope of immunity varies among organizations, but IMF member countries have granted the Fund absolute immunity from all forms of judicial process, including in employment matters. She stressed, however, that “immunity is not impunity,” and that the Fund’s Regulation N-15 requires the establishment of appropriate procedures to address staff grievances.

4.2 The Tribunal’s Role in Ensuring Accountability and Upholding the Rule of Law

Ms. Liu described the IMF Administrative Tribunal as the pinnacle of the Fund’s internal dispute resolution system. The Tribunal issues final and binding decisions that the institution is obligated to implement, ensuring that all actors within the Fund—including management and the Executive Board—operate within the confines of legality. She emphasized that the Tribunal is empowered to review not only individual employment disputes but also regulatory decisions adopted by Management or the Executive Board, granting the Tribunal a quasi-constitutional function.

She offered examples of the Tribunal's impact, noting that its decisions have clarified key principles in the Fund's internal law, such as the definition of fundamental conditions of employment and the permissible scope of Executive Board's discretion. She recalled that, following a Tribunal judgment requiring recalculations for the compensation decision in fiscal year 2022, Management fully complied by recalculating the figures and the Executive Board reconsidered the decision accordingly. These developments underscored the Tribunal's central role in promoting legality, accountability, and institutional confidence in the Fund's governance processes.

4.3 Selection of Tribunal Members and Safeguards for Their Independence

Ms. Liu described the Fund's rigorous process for selecting Tribunal judges. The process begins with a public call for candidates and includes extensive outreach. A panel composed of representatives from Human Resources, the Legal Department, and the Staff Association reviews applications, conducts interviews, and recommends candidates to Management. Management consults with the Executive Board, which must approve the appointment of the Tribunal President.

She noted several statutory safeguards: judges must be completely independent, cannot have prior or present employment relationships with the Fund, are ineligible for future employment with the Fund after their service, and may be removed only by unanimous decision of the other members of the Tribunal. In 2012, the Tribunal adopted a Code of Judicial Conduct containing procedural safeguards to reinforce judicial independence.

Ms. Liu also highlighted that independence does not mean isolation. She commended the Tribunal's engagement with staff and other stakeholders, including through regular dialogue and

outreach events. She concluded by expressing appreciation to past and current judges for their service and reaffirmed the Fund's commitment to maintaining an independent and effective internal justice system.

5. Remarks by Ms. Kathryn Nelson-Indre, Chair of the IMF Staff Association

Ms. Kathryn Nelson-Indre began by expressing gratitude to the organizers of the conference and noting the value of community, dialogue, and learning in strengthening the internal justice system. She framed her remarks from the perspective of the staff, focusing on the themes of immunity, independence, trust, and institutional accountability.

5.1 The Role of Staff Associations in Internal Governance

Ms. Nelson-Indre emphasized that immunity is central not only to the institution's operations but also to staff rights and internal justice. She observed that staff associations are not merely support groups; they are integral components of the internal governance structure of international organizations. They play a key role in defending employment rights, promoting fairness, and safeguarding the principle of freedom of association, which she identified as a cornerstone of international administrative law. She explained that this principle is not theoretical but a "living mechanism" that protects staff and enhances institutional fairness.

5.2 Trust, Perception, and the Closed Nature of Internal Systems

Ms. Nelson-Indre addressed the recurring question within closed systems: to what extent are internal tribunals truly independent—and perceived as independent? Because international organizations function outside of national jurisdiction, she argued that internal justice mechanisms

must maintain not only actual independence but also a high degree of perceived legitimacy. She articulated the concern that some staff view internal systems as designed more to protect the institution than the individual, emphasizing that even if such perceptions are inaccurate, they must be taken seriously.

She stressed that building trust is a long-term effort requiring continuous reinforcement of fairness, equality, and transparency. She stated that staff associations are indispensable in this process.

5.3 Enhancing Transparency, Engagement, and Accessibility

Ms. Nelson-Indre proposed several measures to strengthen transparency and institutional trust. She suggested instituting annual “town hall” sessions where staff could meet tribunal judges and learn more about tribunal procedures and reasoning. She underscored the importance of timely adjudication, noting that “justice delayed is justice denied,” and called for more accessible summaries of decisions written in clear language and organized in an easily searchable format.

She recommended creating safe feedback channels for staff to raise questions or concerns without fear of reprisal. She also stressed that increased transparency in tribunal operations—and greater accessibility of information—could help demystify the system and foster engagement.

5.4 The Case for an Appellate Mechanism

Ms. Nelson-Indre proposed the establishment of an appellate mechanism, similar to the UN Appeals Tribunal, to provide an additional layer of review for potential procedural errors or misapplications of law. She argued that an appellate body would strengthen accountability,

enhance confidence, and demonstrate that independence encompasses responsibility as well as autonomy.

She characterized such a mechanism as an important evolution of internal justice, providing reassurance to staff that decisions are subjected to rigorous scrutiny and are not insulated from review.

5.5 Selection of Judges and Conflicts of Interest

Ms. Nelson-Indre emphasized that judges make decisions with profound impacts on careers, reputations, and institutional accountability. She advocated for selecting judges with deep expertise in administrative law, ideally retired administrative judges with established records of fairness. She underscored that competence is as essential as independence.

She also identified a need for clearer definitions of conflicts of interest for judges. She observed that judges often serve on multiple tribunals, sometimes reviewing disputes from different organizations, raising questions about potential partiality. She called for mandatory disclosure of all relevant affiliations and for clearly articulated guidelines governing recusals whenever impartiality might reasonably be questioned.

Ms. Nelson-Indre stressed that staff should not be subject to more stringent conflict-of-interest rules than those applied to judges, and that clarity in conflict standards is essential both substantively and in terms of optics.

5.6 Concluding Remarks

In her closing remarks, Ms. Nelson-Indre reiterated the importance of transparency, accountability, and collaboration between management, staff, and external experts. She encouraged continued engagement to strengthen the Tribunal and the internal justice system as a whole. She expressed hope that ongoing dialogue would reinforce trust and contribute to a fair and robust system grounded in integrity and shared responsibility.

6. Conclusion

The session's contributions highlighted the complex relationship between organizational immunity, tribunal independence, and internal governance structures in international organizations. From Judge Ziadé's detailed survey of national jurisprudence to Professor Bekker's analysis of the functional and legal foundations of immunity, the panel underscored the evolving judicial landscape confronting international organizations. Ms. Liu's remarks emphasized the IMF's commitment to a strong and effective dispute resolution system, while Ms. Nelson-Indre articulated the staff perspective, calling for enhanced transparency, trust-building measures, and the creation of an appellate mechanism.

Collectively, the discussion reaffirmed that internal justice systems must be structurally independent, procedurally robust, and perceived as legitimate in order to sustain the immunities and autonomy of international organizations. The panel concluded that these issues will remain central to the governance of international organizations and that continued vigilance, reform, and dialogue are essential to their future integrity.