

REGISTRY'S SUMMARY<sup>1</sup>: *“YY”, Applicant v. International Monetary Fund, Respondent*,  
IMFAT Judgment No. 2025-5 (October 27, 2025)

FUND RETIREE – EXPECTATION OF ACCESS TO FUND BY FORMER STAFF – ENTITLEMENT OF FORMER STAFF TO  
MISCONDUCT INVESTIGATION – APPLICATION OF JURISPRUDENCE OF OTHER TRIBUNALS – ABUSE OF DISCRETION IN  
IMPOSITION AND MAINTENANCE OF ENTRY BAN – COMPENSATION FOR INTANGIBLE INJURY – LEGAL FEES AND  
COSTS

Applicant, a long-serving Fund employee who retired from the Fund in 2008, contended in his Application that the Fund denied him a right to be heard by unilaterally imposing a security ban on his access to Fund Headquarters (“HQ”) based on an allegation of sexual harassment made by a Fund staff member. Applicant simultaneously filed a Grievance with the Grievance Committee. The parties mutually agreed to stay the proceedings of the Grievance Committee pending a decision of the Tribunal.

The Fund answered the Application with a Motion for Summary Dismissal (“Motion”), in which it asserted that the Tribunal did not have jurisdiction over the case. In *“YY”, Applicant v. International Monetary Fund (Admissibility of the Application)*, IMFAT Judgment No. 2024-3 (June 7, 2024), the Tribunal denied the Motion, permitting the case to go forward on the merits.

The Tribunal observed that the question to be determined on the merits was the contours of the right to be heard in the context of a retired staff member against whom an entry ban had been imposed based on an allegation of inappropriate conduct. Because this was a question of first impression for the Tribunal, it found that guidance from other international administrative tribunals could be instructive, but only to the extent such guidance was not dependent on a particular law of the organization in question, reflected generally recognized principles of international administrative law concerning judicial review of administrative acts, and was applicable to, and appropriate for, the Fund.

The Tribunal found that the jurisprudence of the World Bank Administrative Tribunal (“WBAT”) on access restrictions would be most relevant in light of the close connections between the IMF and the World Bank, which included shared access to each institution’s buildings. Therefore, concluded the Tribunal, “a common analytical due process approach on entry bans would not only be reasonable but also practical” to the extent relevant WBAT jurisprudence was applicable and appropriate for the Fund and reflective of general principles of international administrative law.

The first issue the Tribunal addressed was whether the entry ban was subject to review even though the original entry ban of April 13, 2021 was supplanted by the July 20, 2022 entry ban protocol (the “July 20, 2022 Protocol”). The Tribunal observed that in its Judgment on admissibility, Applicant was held to have had an opportunity to respond to the April 13, 2021 entry ban, but failed to do so. However, the Tribunal further held that the Application was

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<sup>1</sup> This summary is provided by the Registry to assist in understanding the Tribunal’s Judgment. It does not form part of the Judgment. The full Judgment of the Tribunal is the only authoritative text. The Tribunal’s Judgments are available at: [www.imf.org/tribunal](http://www.imf.org/tribunal).

nonetheless timely because the July 20, 2022 Protocol was a separate administrative act which Applicant challenged in a timely manner. In the present case, the Tribunal found that both the April 13, 2021 entry ban and the July 20, 2022 Protocol were grounded on the sexual harassment allegation and that the July 20, 2022 Protocol was the final formulation of the entry ban. Therefore, concluded the Tribunal, the entry ban was subject to review.

The Tribunal next determined whether retirees have a legitimate expectation of access to Fund HQ. The Tribunal observed that internal Fund guidance to retiring staff on access to Fund HQ was consistent with the WBAT jurisprudence, which provides that former staff have neither a right nor a legitimate expectation of access to World Bank premises. Rather, such access is a privilege. The Tribunal found that while the removal of access privilege from a particular retiree falls within the discretion of the Fund, this decision must be based on valid security interests or other justifiable needs. It further found: (a) to allow different treatment of a specific retiree from the treatment of other retirees, absent a legitimate reason, could raise issues of discrimination; and (b) where a legitimate basis for the removal of access privileges is alleged by the institution, such as maintaining security, the retiree must nonetheless be afforded basic due process.

The third issue considered by the Tribunal was whether the entry ban constituted a disciplinary measure for which a misconduct investigation should have been conducted. The Tribunal observed that, contrary to an assertion raised by Applicant, the Fund had not communicated to him that he was “guilty” of sexual harassment. Rather, the Fund initially referred to an “allegation” of sexual harassment, and subsequently to “security considerations.” Further, a review of the relevant provisions of the Staff Handbook indicate that a misconduct investigation into an allegation is predicated on the subject of the allegation having an ongoing employment relationship with the Fund. Therefore, concluded the Tribunal, the entry ban did not constitute a disciplinary measure and Applicant, as a former staff member, could not be subject, and was not entitled, to a misconduct investigation.

Next, the Tribunal considered whether the entry ban was justified and whether the Fund complied with due process. The Tribunal first observed that both parties referred to the WBAT jurisprudence to support their respective positions. The Tribunal found that WBAT standards on entry bans were applicable to the Fund for the following reasons: (a) there was no indication that the standards are grounded on any particular World Bank staff rule or regulation; (b) the standards derive from general principles of international administrative law, specifically due process and the right to be heard; (c) the standards are appropriate for the Fund because they establish a reasonable analytical due process framework for addressing security-based access restrictions on current and former staff; and (d) the use of the framework by the Fund is practical in light of the close relationship between the IMF and the World Bank and the fact that staff from each institution have access to both IMF and World Bank premises with their identification badges.

The Tribunal found that in applying relevant WBAT standards to this case, the questions for consideration were whether the Fund abused its discretion in imposing the entry ban in its final formulation, and whether the Fund abused its discretion in maintaining the entry ban. With respect to the first question (*i.e.*, whether the Fund abused its discretion in imposing the entry ban), the analysis would turn on (a) whether there was a reasonable and observable

basis for the entry ban, (b) whether Applicant was provided with sufficient information to defend himself against the entry ban, and (c) whether the Fund made clear to Applicant the nature, duration and rationale for the entry restriction. In answering the second question (*i.e.*, whether the Fund abused its discretion in maintaining the entry ban), the issue for consideration was two-fold: (i) whether the Fund, in maintaining the access restriction, made a good-faith effort to garner Applicant's informed response to the allegation made against him; and (ii) whether the purpose of garnering such information was to provide an objective decision-maker with sufficient evidence to be able to determine the true nature of the facts and reach a well-founded decision as to whether Applicant's access restriction should be maintained or removed.

The Tribunal first addressed whether there was a reasonable and observable basis for the entry ban. The Tribunal observed that the Fund conducted a risk assessment of the allegation but wanted to share its risk assessment only with the Tribunal (and not with Applicant) in the form of an annex under seal (the "Annex"). The Tribunal provided the Fund an opportunity to make appropriate redactions to the proposed Annex in order to address its safety and confidentiality concerns while ensuring the comprehensibility and integrity of the Annex. However, the Fund declined to submit a redacted version of the Annex, thereby indicating that it was withdrawing it. The Tribunal found that the record, absent the Annex, was devoid of evidence supporting the allegation that served as the basis for the entry ban. Therefore, the entry ban lacked a reasonable and observable basis and constituted an abuse of discretion.

The Tribunal next addressed whether Applicant was provided with sufficient information to defend himself against the entry ban. The Tribunal observed that the entry ban of April 13, 2021 did not provide any information on the dates of the alleged sexual harassment or any additional context to the allegation and that subsequent communications from the Fund did not provide further clarifications. The Tribunal therefore concluded that the Fund did not provide Applicant sufficient information to defend himself against the sexual harassment allegation upon which the entry ban was based. This was a violation of due process and, consequently, an abuse of discretion.

Third, the Tribunal considered whether the Fund made clear to Applicant the nature, duration and rationale for the entry restriction. The Tribunal observed that the April 13, 2021 entry ban notification made clear to Applicant the nature and rationale for the entry ban but not the duration. This was a violation of due process and, therefore, an abuse of discretion. The Tribunal noted that a reasonable approach would have been for the Fund to have notified Applicant of the nature, rationale and duration of the ban while also informing him that the ban was being imposed as a preliminary safeguard pending due process.

Fourth, the Tribunal assessed whether the Fund abused its discretion in maintaining the entry ban. The Tribunal observed that the Fund made no effort to obtain Applicant's response to the sexual harassment allegation made against him after the imposition of the entry ban for the purpose of providing an objective decision-maker with sufficient evidence to be able to determine the true nature of the facts and reach a well-founded decision as to whether the flags should be maintained or removed. The Fund did not contest this. This was a violation of due process and therefore an abuse of discretion. The Tribunal emphasized that it takes allegations of sexual harassment very seriously. However, such allegations do not exempt the Fund from

complying with due process and respecting an applicant's right to be heard. The Tribunal further emphasized that the right to be heard is a fundamental tenet of due process and must be respected at all times, irrespective of the seriousness of the allegation.

Lastly, the Tribunal determined whether the Fund inappropriately communicated the entry ban within Applicant's former Department. The Tribunal observed that Applicant had not shown that the Fund handled information about the ban improperly and that there was no evidence showing that there was an oral or written communication about the ban within Applicant's former Department. The Tribunal further observed that Applicant had not demonstrated that he suffered any compensable harm as a result of two particular staff members knowing about the ban. The Tribunal noted that Applicant had not shown that these two staff members did not have a need to know of the ban. Accordingly, the Tribunal found that Applicant had not shown that the Fund inappropriately communicated the entry ban within his former Department.

In light of the above findings and conclusions, the Tribunal turned to the question of remedies for intangible harm. The Tribunal first observed that rescission of the entry ban was not an appropriate remedy in the specific circumstances of this case because the Tribunal cannot rule out the possibility that, after further review, there may in fact be a reasonable and observable basis for the ban. The Tribunal therefore invited the Fund promptly to solicit Applicant's response to the sexual harassment allegation for the purpose of providing an objective decision-maker with sufficient evidence to be able to determine the true nature of the facts and reach a well-founded decision as to whether the access flags are to be maintained or removed. The Tribunal emphasized that pending the outcome of such a review, the July 20, 2022 Protocol should be adhered to by both parties in good faith.

On the issue of compensation, the Tribunal identified the injury and assessed its nature and severity, giving due weight to factors that may either aggravate or mitigate the degree of harm to Applicant. The injury, observed the Tribunal, arose from (a) the imposition and maintenance of the entry ban without a reasonable and observable basis and without due process, and (b) the Fund's assumption of guilt, without providing Applicant sufficient information to defend himself. Applicant's injury was aggravated by the Fund's refusal to meet with him to discuss the sexual harassment allegation made against him. His injury was mitigated by the fact that some of his claimed harms were speculative and others could be addressed if he were to use the July 20, 2022 Protocol. Taking into consideration the injury sustained by Applicant and the mitigating and aggravating factors, the Tribunal awarded compensation to Applicant in the amount of \$80,000.

Lastly, the Tribunal considered Applicant's request for legal fees and costs. The Tribunal observed that fee awards must be reasonable and that assessing reasonableness includes applying a principle of proportionality, which takes into account the degree to which an applicant is successful in the context of the totality of the case. The Tribunal weighed the following: (a) Applicant was successful in arguing that the entry ban was subject to review; (b) Applicant prevailed on his chief complaint that the imposition and maintenance of the entry ban constituted an abuse of discretion; (c) Applicant's chief complaint was central to the dispute and was complex because it was a matter of first impression; (d) Applicant did not prevail on two claims, which were also matters of first impression and important for the

institution—namely, whether retired staff members have a legitimate expectation of access to Fund premises and whether the entry ban was a disciplinary measure that necessitated a misconduct investigation; and (e) the third claim on which Applicant did not prevail was not of equal institutional significance (*i.e.*, whether the entry ban was publicized within Applicant’s former Department) and it formed only a small part of the pleadings. In the light of these findings and the record of the litigation, the Tribunal ordered the Fund to pay Applicant the full amount of legal fees and costs incurred, in the amount of \$53,093.35.