REGISTRY'S SUMMARY[1]: ***F. Várdy et al., Applicants v. International Monetary Fund, Respondent (Applications for Intervention)***, IMFAT Order No. 2026-2 (August 4, 2026)

JOINT APPLICATIONS FOR INTERVENTION – PROCEDURAL REQUIREMENTS – ADMISSIBILITY REQUIREMENTS – BENEFIT PLAN – CONTRACTUAL EMPLOYEES – ANONYMITY

In Order No. 2026-2, the Administrative Tribunal of the International Monetary Fund considered three Joint Applications for Intervention filed in connection with five Applications challenging elements of the 2025 Review of Staff Compensation (the "Challenged Decision").

The underlying Applications, submitted by Felix Várdy, Mark Griffiths, Priscilla Toffano, Jonathan Manning, and Jairo Jara, contend that in taking the Challenged Decision, the Fund did not comply with the "safeguard mechanism" rule, which was adopted as part of the 2019 Comprehensive Compensation Benefits Review ("CCBR"). According to Applicants in the underlying Applications, the Fund improperly carried out the four-factor analysis provided under the safeguard mechanism. In their view, to calculate the comparatio, the Fund has been using flawed forecast data instead of actual data, with the effect of consistently underestimating actual salary growth and eventually causing salary losses to Applicants. Also according to Applicants, the Fund's real reasons not to approve a salary adjustment in the 2025 Review of Staff Compensation were not valid reasons under the safeguard mechanism. Applicants argue as a consequence that by adopting the Challenged Decision, the Fund (i) violated the rules of the CCBR, (ii) violated its duty to state proper and valid reasons for departing from the safeguard mechanism, and (iii) abused its discretion by violating its obligation not to ground its decision on the desire to save money, at the staff's expense, and therefore at the Applicants' expense. Applicants seek as relief the annulment of the Challenged Decision and the taking of all other measures required to correct the effect of that decision. Alternatively, they seek payment of monetary compensation.

Following circulation of the notice of the Applications within the Fund, three groups of Fund employees (the "Prospective Intervenors") sought to intervene pursuant to Rule XIV of the Tribunal's Rules of Procedure. The first Joint Application for Intervention was filed by 100 employees under open-ended appointments in the *J. Manning v. IMF* case; the second by 15 employees under fixed-term appointments in the *J. Jara v. IMF* case; and the third by 14 contractual employees, also in the *J. Jara v. IMF* case. The Prospective Intervenors asserted that they relied on the same facts, legal framework, grounds of challenge, and requested the same relief as Applicants in the corresponding Applications. They also argued that they met the admissibility requirements to intervene in the proceedings.

The Tribunal first addressed the procedural requirements that the Prospective Intervenors had to meet under Rules XIV and VII of the Tribunal's Rules of Procedure. The Tribunal noted that certain Prospective Intervenors had failed to provide signed Annex B Forms authorizing counsel to represent them, despite repeated requests, and that others had failed to provide payroll statements in support of their compensation claims. Because these documents were required under Rules VII and XIV of the Tribunal's Rules of Procedure, and because only the Prospective Intervenors themselves could cure their omission, the Tribunal concluded that the submissions of these Prospective Intervenors did not constitute

[1] This summary is provided by the Registry to assist in understanding the Tribunal's Order. It does not form part of the Order. The full Order of the Tribunal is the only authoritative text. The Tribunal's Orders are available at: www.imf.org/tribunal.

applications for intervention and could not be admitted. The Tribunal also took note that two employees had withdrawn from the relevant Joint Applications for Intervention.

The Tribunal then considered the admissibility requirements for intervention under Article X, Section 2(b) of the Tribunal's Statute and Rule XIV, Paragraph 1 of the Tribunal's Rule of Procedure. The Tribunal recalled that an intervenor must satisfy two statutory requirements: "'First, the intervenor must be a person who is within the Tribunal's jurisdiction *ratione personae*. Second, the intervenor must have a right that may be affected by the judgment to be given by the Tribunal.'" (para. 48.)

There was no dispute between the Prospective Intervenors and the Fund that employees under open-ended and fixed-term appointments satisfied these admissibility requirements. Those employees were members of the staff within the meaning of Article II of the Statute, and their rights could be affected by the Tribunal's judgment on the legality of the Challenged Decision.

By contrast, the Fund challenged the admissibility of the Joint Application for Intervention filed by contractual employees. The Tribunal held that contractual employees did not fall within the definition of "member of the staff" in Article II, Section 2(c) of the Statute, a conclusion supported by the Commentary on the Statute, which expressly excludes "persons employed under contract to the Fund" from that category. The Tribunal further considered whether contractual employees could rely on Article II, Section 1(b) of the Tribunal's Statute, which gives access to "an enrollee in, or beneficiary under, any retirement or other benefit plan maintained by the Fund as employer." In support of their Joint Applications for Intervention, the Prospective Intervenors under employment contracts had invoked IMFAT Judgment No. 2023-3 in the *"VV"* case, which concerned workers' compensation. The Tribunal found that in the present case the Prospective Intervenors had not identified any Fund benefit plan within the meaning of Article II, Section 1(b), contrary to the applicant in the *"VV"* case. While their Joint Application for Intervention focused on salary adjustment, the Prospective Intervenors had submitted no argument as to how salary or a salary increase could fit within the ambit of "a benefit plan maintained by the Fund" within the meaning of Article II, Section 1(b) of the Statute. In addition, the Tribunal was not presented with any relevant Fund rule equating "benefit plan" and "salary" or suggesting that the former encompassed the latter.

Accordingly, the Tribunal concluded that the Prospective Intervenors who were contractual employees did not meet the requirement of jurisdiction *ratione personae*. Therefore, it was unnecessary to determine whether their rights might be affected by the eventual judgment. The Tribunal, however, observed that, to the extent contractual employees' rights could be affected by a judgment on the Fund's staff compensation decision, the rationale for restricting access to the forum that would allow these employees to contest such decision was not fully clear. The Tribunal noted that the ongoing implementation of the 2022 Review of the IMF's Dispute Resolution System could provide further insights into this issue.

The Tribunal also denied the Prospective Intervenors' requests for anonymity. The Tribunal recalled that under Rule XXII of the Tribunal's Rules of Procedure, anonymity may be granted only upon a showing of good cause. To justify a grant of anonymity in this proceeding, the Prospective Intervenors had invoked their status within the IMF and possible retaliation affecting their career prospects. The Tribunal reiterated that it does not accept as ground for anonymity unsubstantiated assertions of fear of retaliation for pursuing a case in the Tribunal. In the present case, the Tribunal found that the Prospective Intervenors had not adduced any evidence of a risk of retaliation, whether potential or actual. Nor had they explained why such risk would be relevant to them and not to Applicants who have not sought anonymity.

In conclusion, the Tribunal admitted the Joint Application for Intervention filed by Fund employees under an open-ended appointment in *J. Manning v. IMF* except with respect to the employees whose application for intervention was identified as "not admissible" in Annex 1 to the Tribunal's Order. The Tribunal likewise admitted the Joint Application for Intervention filed by Fund employees under a fixed-term appointment in *J. Jara v. IMF* except with respect to employees whose application for intervention was identified as "not admissible" in Annex 2 to the Order. The Tribunal denied the Joint Application for Intervention filed by contractual employees, denied all requests for anonymity, and set a deadline of September 1, 2026 for any Intervenor wishing to withdraw in light of the denial of the requests for anonymity. The Order further provided that it would be circulated within the Fund and published on the Tribunal's website without Annexes 1, 2, and 3, which identify the 129 Prospective Intervenors. Employees whose applications for intervention were denied, as well as any Intervenor withdrawing by the September 1, 2026 deadline, would remain anonymous.