ADMINISTRATIVE TRIBUNAL

OF THE

INTERNATIONAL MONETARY FUND

Order No. 2026-2

August 4, 2026

F. Várdy at al., Applicants v. International Monetary Fund, Respondent

(Applications for Intervention)

Office of the Registrar

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INTRODUCTION: OVERVIEW OF THE APPLICATIONS AND PROCEDURAL BACKGROUND

1. On July 30, 2025, Felix Várdy, Mark Griffiths, Priscilla Toffano, Jonathan Manning, and Jairo Jara (the "Applicants") filed identical Applications against the IMF.[1] On August 19, 2025, after several exchanges between the Applicants and the Registry for purposes of supplementing the Applications, the Supplemented Applications were transmitted to the Fund.

2. The Supplemented Applications contest elements of the 2025 Review of Staff Compensation, as proposed by Fund Management and approved by the IMF Executive Board ("Board") on April 2, 2025, with effect from May 1, 2025 (the "Challenged Decision"). Applicants bring their challenges pursuant to Article VI, Section 2 of the Tribunal's Statute, which permits direct challenges to regulatory decisions of the Fund within three months of the later of the announcement or effective date of the decision.

3. In their Supplemented Applications, Applicants 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"). The safeguard mechanism is designed to ensure that average staff salaries remain within a range of 98-102 percent of the market-adjusted pay-grade midpoints, based upon calculation of the "comparatio," that is, the average of actual salaries for each pay grade relative to its midpoints, weighted by the number of staff members in each pay grade. If the comparatio falls outside of the 98-102% range, and if a four-factor test provided under the safeguard mechanism is met, an adjustment to the salary increase would be expected to be approved by the Board to bring the comparatio back into the range.

4. According to Applicants, the Fund improperly carried out the four-factor analysis. 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 – the challenging fiscal contexts facing Member States and the preservation of the Fund's budget – are not valid reasons under the

[1] The Tribunal notes differences between the five Applications only as to the estimated net present value of lifetime compensation losses alleged by each Applicant, the calculation of which is based on salary and pension rights that vary from one Applicant to the other.

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.

5. Applicants seek as relief: (a) the annulment of the Challenged Decision and the taking of all other measures required to correct the effect of that decision, including a supplemental single salary increase sufficient to restore a comparatio of 100% and fully align average salaries to the payline, with any such increase to be made retroactive to May 1, 2025; (b) if the Managing Director decides that the requested measures shall not be implemented, in accordance with Article XIV, Section 2 of the Tribunal's Statute, the payment of monetary compensation corresponding to the estimated net present value of lifetime compensation losses of each Applicant; (c) any additional relief deemed just and proper by the Tribunal; and (d) an award of legal fees and costs, which the Tribunal may award, in accordance with Article XIV, Section 4 of its Statute, if it concludes that the Application is well-founded in whole or in part.

6. On August 25, 2025, pursuant to Rule IV(f) of the Tribunal's Rules of Procedure, the Registrar circulated within the Fund a notice summarizing the issues raised in the Supplemented Applications.

7. On September 24, 2025, Fund employees filed three joint applications for intervention ("JAFI") pursuant to Rule XIV, Paragraph 1 of the Tribunal's Rules of Procedure (the "Prospective Intervenors"). The first joint application was filed by 100 Fund employees under an open-ended appointment in the *J. Manning v. IMF* case;[2] the second by 15 Fund employees under a fixed-term appointment in the *J. Jara v. IMF* case;[3] and the third by 14 Fund employees under an employment contract in the *J. Jara v. IMF* case.[4] For ease of reference, these applications for intervention will be referred to collectively as the "Joint Applications for Intervention," and individually as "JAFI Manning (open-ended);" "JAFI Jara (fixed-term);" and "JAFI Jara (contractual)," respectively. The Joint Applications for Intervention were all filed on behalf of the Prospective Intervenors by Me Rémi Cèbe who represents both the five Applicants and the Prospective Intervenors in the present proceeding.

8. On October 3, 2025, the Fund filed its Answer, which the Registrar transmitted to Applicants on October 9, 2025. In its Answer, the Fund argues that Applicants have failed to meet

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[2] *See* Annex 1 to this Order. Annex 1 will not be published, as per the Tribunal's decision in this Order. *See* para. 71(f) below.

[3] *See* Annex 2 to this Order. Annex 2 will not be published, as per the Tribunal's decision in this Order. *See* para. 71(f) below.

[4] *See* Annex 3 to this Order. Annex 3 will not be published, as per the Tribunal's decision in this Order. *See* para. 71(f) below.

the burden of proving that the Challenged Decision amounted to an abuse of discretion or was otherwise arbitrary or capricious.

9. Also on October 9, 2025, some of the Prospective Intervenors filed further documentation in support of the Joint Applications for Intervention[5] and informed the Tribunal that two employees no longer wished to submit an application for intervention.[6]

10. On October 20, 2025, Applicants requested an extension of the deadline to file their Reply until December 10, 2025 (the "Extension Request").

11. On October 22, 2025, the Registrar requested the Prospective Intervenors to supplement the Joint Applications for Intervention, which they did on November 5 and 6, 2025. While providing missing and/or corrected Annex B Forms of Appointment of Representative (and Counsel) ("Annex B Forms") and payroll statements, the Prospective Intervenors also informed the Tribunal, *inter alia*, that no Annex B Form had been provided by four Prospective Intervenors despite repeated requests from counsel.[7]

12. Following the transmission of the Extension Request by the Registrar to the Fund on October 23, 2025, the Fund filed its comments on said request on October 28, 2025. Upon transmission of the Fund's comments to Applicants on October 29, 2025, the Registrar informed the parties of the decision of the President of the Tribunal to grant the requested extension to Applicants. The parties were further informed that the deadline for filing the Rejoinder, which would include the ten-day extension requested by the Fund in its October 28, 2025 comments, would be confirmed upon transmission of the Reply to the Fund.

13. On December 9, 2025, Applicants filed their Reply. Further to the Registrar's request of December 11, 2025, Applicants supplemented the Reply on December 15, 2025. The Registrar transmitted the Reply to the Fund on December 16, 2025, and confirmed that the deadline to file the Rejoinder was January 26, 2026.

14. On December 12, 2025, pursuant to Rule XIV, Paragraph 3 of the Tribunal's Rules of Procedure, the Registrar transmitted the Joint Applications for Intervention to the parties. In so doing, the Registrar informed the Prospective Intervenors and the parties that the President of the Tribunal, taking into account the upcoming winter holidays and in light of Rule XXI of the Tribunal's Rules of Procedure, invited Applicants and the Fund each to present their views on the

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[5] Prospective Intervenors nos. 6, 18, 23, 78, and 82 in Annex 1, Prospective Intervenor no. 10 in Annex 2, and Prospective Intervenors nos. 9 and 10 in Annex 3 submitted their Annex B Forms of Appointment of Representative (and Counsel) on October 9, 2025.

[6] The two employees in question are Prospective Intervenor no. 38 in Annex 1 and Prospective Intervenor no. 1 in Annex 3.

[7] The four employees are Prospective Intervenors nos. 12, 51, and 90 in Annex 1 and Prospective Intervenor no. 2 in Annex 3.

Joint Applications for Intervention, including on the Prospective Intervenors' requests for anonymity, by January 21, 2026.

15. On January 21, 2026, the Fund filed its Reply to the Applications to Intervene, which the Registrar transmitted to Applicants and the Prospective Intervenors on January 23, 2026. No submission on the admissibility of the Joint Applications for Intervention was received from Applicants.

16. On January 26, 2026, the Fund filed its Rejoinder, which the Registrar transmitted to Applicants on the same day.

17. On June 18, 2026, one of the Applicants, Mr. Várdy ("Applicant Várdy"), filed a request for leave to submit additional written statements and documents pursuant to Rule XI of the Tribunal's Rules of Procedure (the "Rule XI Request").

18. On June 22, 2026, through the Registry, the President of the Tribunal invited the other Applicants and the Fund to submit their comments on the Rule IX Request. On June 25, 2026, the other Applicants informed the Registry that they would not file any comment. On June 26, 2026, the Fund filed written submissions in response to the Rule XI Request.

19. By letter of July 6, 2026, the Registrar conveyed to the parties the President's decision to deny the Rule XI Request.

PROSPECTIVE INTERVENORS' AND PARTIES' POSITIONS WITH RESPECT TO THE ADMISSIBILITY OF THE JOINT APPLICATIONS FOR INTERVENTION

20. Since Applicants did not submit any views on the admissibility of the Joint Applications for Intervention, this Section provides only a summary of the Prospective Intervenors' and the Fund's respective positions on the matter.

A. <u>JAFI Manning (open-ended)</u>

(1) <u>Prospective Intervenors' Position</u>

21. Pursuant to the procedural requirements set forth in Rule XIV, Paragraph 2 and Rule VII of the Tribunal's Rules of Procedure, the Prospective Intervenors under an open-ended appointment have submitted (i) signed Annex B Forms on September 24, October 9, and November 5, 2025, and, following the Registry's request of October 22, 2025, (ii) payroll statements on November 5, 2025. In the course of the exchanges between the Registry and the Prospective Intervenors, counsel for the Prospective Intervenors informed the Registry that:

(a) Three Prospective Intervenors under an open-ended appointment – Prospective Intervenors nos. 12, 51, and 90 in Annex 1 – had not provided any signed Annex B Form, despite repeated requests from counsel.

(b) One Prospective Intervenor under an open-ended appointment – Prospective Intervenor no. 38 in Annex 1 – no longer wished to submit an application for intervention.

(c) "The requested Payroll Statements of Intervenors received to date [November 5, 2025] were filed today in the Folder 'Payroll statements of interveners' in the general Folder 'Applications for Intervention.'"[8]

22. The Prospective Intervenors argue that their "application to intervene is submitted on the ground that all intervenors have a right which may be affected by the judgment to be given by the Tribunal." The Challenged Decision having failed to "apply to the Applicant's salary a further adjustment aimed at bringing the 'Comparatio' back into the range, as provided by the 'Safeguard Mechanism'" of the CCBR, the Prospective Intervenors contend that their application is admissible (i) *ratione materiae* "since [it is] directed against a regulatory decision which adversely affected the Applicant, and the intervenor," and (ii) *ratione temporis* because the JAFI Manning (open-ended) was "submitted within thirty days of the issuance of the notice prescribed by Rule IV of the Tribunal's Rules of Procedure."

23. The Prospective Intervenors in the *J. Manning v. IMF* case submit that they rely on the same facts, applicable legal framework, and grounds of challenge as those set out in Mr. Manning's Application. They also seek the same relief and remedy.

(2) <u>Respondent's position</u>

24. Respondent argues that the applications for intervention of employees under an open-ended appointment who have failed to provide a signed Annex B Form and/or a payroll statement must be dismissed.

25. According to Respondent, because they do not meet the requirements of Rule VII, Paragraphs 1 and 4(a) of the Tribunal's Rules of Procedure, the submissions of Prospective Intervenors nos. 12, 51, and 90 in Annex 1, who have failed to submit a signed Annex B Form, do not constitute an application for intervention and cannot be filed as such, as foreshadowed in Rule VII, Paragraph 6(c).

26. In addition, Respondent contends that the employees under an open-ended appointment who have failed to provide their payroll statement have failed to meet the requirement of Rule VII, Paragraph 3 of the Tribunal's Rules of Procedure, which applies to applications for intervention by virtue of Rule XIV, Paragraph 2. Their submissions should therefore be dismissed.

27. Respondent does not otherwise challenge the admissibility of the JAFI Manning (open-ended).

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[8] A number of payroll statements of prospective intervenors under an open-ended appointment have remained missing. *See* para. 47 and fn. 17 below.

B. JAFI Jara (fixed-term)

(1) Prospective Intervenors' Position

28. Pursuant to the procedural requirements set forth in Rule XIV, Paragraph 2 (and Rule VII) of the Tribunal's Rules of Procedure, the Prospective Intervenors under a fixed-term appointment have submitted (i) signed Annex B Forms on September 24, October 9, and November 5, 2025 and, following the Registry's request of October 22, 2025, (ii) payroll statements on November 5, 2025. By email of November 5, 2025, counsel for the Prospective Intervenors informed the Registry that "[t]he requested Payroll Statements of Intervenors received to date were filed today in the Folder 'Payroll statements of interveners' in the general Folder 'Applications for Intervention.'"[9]

29. The Prospective Intervenors' arguments on jurisdiction and admissibility in the JAFI Jara (fixed-term) are identical to those of the Prospective Intervenors under an open-ended appointment in the JAFI Manning (open-ended).

(2) Respondent's Position

30. Respondent contends that the Prospective Intervenors under a fixed-term contract who have failed to provide their payroll statement – namely Prospective Intervenors nos. 8, 10, and 15 in Annex 2 – have failed to meet the requirement of Rule VII, Paragraph 3 of the Tribunal's Rules of Procedure, which applies to applications for intervention by virtue of Rule XIV, Paragraph 2. Their submissions should therefore be dismissed.

31. Respondent does not otherwise challenge the admissibility of the JAFI Jara (fixed-term).

C. JAFI Jara (contractual)

(1) Prospective Intervenors' Position

32. Pursuant to the procedural requirements set forth in Rule XIV, Paragraph 2 (and Rule VII) of the Tribunal's Rules of Procedure, the Prospective Intervenors under an employment contract have submitted (i) signed Annex B Forms on September 24, October 9, and November 5, 2025, and, following the Registry's request of October 22, 2025, (ii) payroll statements on November 5, 2025. In the course of the exchanges between the Prospective Intervenors and the Registry, counsel for the Prospective Intervenors informed the Registry that:

(a) One prospective intervenor under an employment contract – Prospective Intervenor no. 2 in Annex 3 – had not provided any signed Annex B Form, despite repeated requests from counsel.

[9] A number of payroll statements of prospective intervenors under an employment contract have remained missing. *See* para. 47 and fn. 17 below.

(b) Another prospective intervenor under an employment contract – Prospective Intervenor no. 1 in Annex 3 – no longer wished to submit an application for intervention.

(c) "The requested Payroll Statements of Intervenors received to date [November 5, 2025] were filed today in the Folder 'Payroll statements of interveners' in the general Folder 'Applications for Intervention.'"[10]

33. The Prospective Intervenors who are contractual employees argue that "they should have access to the Tribunal, and be allowed to intervene" on the following basis:

> In its Judgment 2023-3, the Tribunal stated that a contractual employee could submit an application, since "[…] First, the plain language of Article II, Section 1(b) [of the Statute], does not exclude non-staff member employees such as Applicant. Second, the Statute's legislative history does not support exclusion of Applicant from the Tribunal's jurisdiction under Article II, Section 1(b), given that the Fund's workers' compensation policy is not an individual contract term but a feature of the Fund's internal law. Third, GAO No. 20 provides that workers' compensation disputes will be channelled through the Fund's formal dispute resolution system." . . . Since contractual employees have a right to the "structure increase" under the CCBR Rules, they should have access to the Tribunal, and be allowed to intervene in the case.[11]

34. These Prospective Intervenors further argue that the Tribunal has jurisdiction *ratione materiae* and *ratione temporis* over their applications for intervention for the same reasons that the other Prospective Intervenors stated in the JAFI Manning (open-ended) and the JAFI Jara (fixed-term).

(2) Respondent's Position

35. Respondent argues that the applications for intervention filed by contractual employees who have failed to provide a signed Annex B Form and/or a payroll statement must be dismissed. Respondent also argues that the JAFI Jara (contractual) fails to meet the admissibility requirement of Rule XIV, Paragraph 1 of the Tribunal's Rules of Procedure.

36. According to Respondent, because it does not meet the requirements of Rule VII, Paragraphs 1 and 4(a) of the Rules of Procedure, the submission of Prospective Intervenor no. 2 in Annex 3, who has failed to submit a signed Annex B Form, does not constitute an application for intervention and cannot be filed as such, as foreshadowed in Rule VII, Paragraph 6(c). In

[10] A number of payroll statements of prospective intervenors under an employment contract have remained missing. *See* para. 47 and fn. 17 below.

[11] JAFI Jara (contractual), para. 4, quoting *"VV", Applicant v. International Monetary Fund, Respondent (Admissibility of the Application)*, IMFAT Judgment No. 2023-3 (March 30, 2023), para. 46.

addition, Respondent contends that the contractual employees who have failed to provide their payroll statement – namely Prospective Intervenors nos. 1, 4, 10, and 13 in Annex 3 – have failed to meet the requirement of Rule VII, Paragraph 3 of the Tribunal's Rules of Procedure, which applies to the applications by virtue of Rule XIV, Paragraph 2. Their submissions should therefore be dismissed.

37. Furthermore, Respondent submits that because "the Tribunal is not open to contractual employees in this case, pursuant to Article II, Section 1 of the Tribunal's Statute," the applications for intervention of contractual employees should all be dismissed. Respondent relies on two main arguments.

38. First, contractual employees are not "members of the staff" within the meaning of Article II, Sections 1(a) and 2(c) of the Tribunal's Statute. Respondent also points to the Commentary on the Statute, which states that "members of the staff" do not include "persons employed under contract to the Fund."[12]

39. Second, contractual employees cannot rely on Article II, Section 1(b) of the Statute either because the compensation decision that they challenge is unrelated to any of the Fund's "benefit plans." Respondent argues that "[t]he mere fact that money is involved does not transform the issue into one arising under a benefit plan. Unlike benefit plans, compensation decisions do not involve separate eligibility criteria and enrollment processes, and do not introduce any additional benefit structure." In addition, the Prospective Intervenors' reliance on IMFAT Judgment No. 2023-3 is misplaced. In that case, Respondent submits, there was no disagreement that the Workers' Compensation Policy was a "benefit plan" and that the policy extended to contractual employees. According to Respondent, the Prospective Intervenors have not proffered any argument that "salary" is a "benefit plan." Their argument that the mere existence of a right is sufficient to fall under the Tribunal's jurisdiction is contrary to Article II, Section 1(b) of the Tribunal's Statute and misinterprets the jurisprudence.

CONSIDERATION OF THE PROSPECTIVE INTERVENORS' JOINT APPLICATIONS FOR INTERVENTION

40. In light of Article X, Section 2(b) and Article II, Section 1 of the Tribunal's Statute, and Rule XIV and Rule VII of the Tribunal's Rules of Procedure, the Tribunal shall determine first whether the Prospective Intervenors have met the procedural requirements provided in the Tribunal's Rules of Procedure (A), and second whether each of the three categories of Prospective Intervenors – employees under an open-ended appointment, employees under a fixed-term appointment, and contractual employees – have met the admissibility requirements established in the Tribunal's Statute and Rules of Procedure (B).

[12] Commentary on the Statute, p. 15.

A. Procedural Requirements Provided in the Rules of Procedure for the Filing of Applications for Intervention

41. As noted in the Procedural History Section, the filing of the three Joint Applications for Intervention ("JAFI") gave rise to several exchanges of correspondence between the Prospective Intervenors and the Registry in relation to the JAFI's compliance with the Tribunal's Rules of Procedure. There were two main issues: (1) a number of Prospective Intervenors could not be identified and/or had failed to provide a signed Annex B Form authorizing counsel to represent them in the proceedings; and (2) documents cited (by reference to the *J. Manning* and *J. Jara* Applications) in support of the Prospective Intervenors' alternative request for relief were also missing from the filing.

(1) The identity of the Prospective Intervenors and the provision of signed Annex B Forms

42. Following the above-referred exchange of correspondence between the Prospective Intervenors and the Registrar, there remained two principal outstanding issues:

43. Firstly, three Fund employees under an open-ended appointment[13] and one Fund employee under an employment contract[14] have failed to provide any signed Annex B Form to date, despite repeated requests from counsel. These Fund employees have therefore failed to comply with Rule XIV, Paragraph 2 and Rule VII, Paragraph 1 of the Tribunal's Rules of Procedure. In addition, after giving these Fund employees an opportunity to fulfill the requirements of Rule XIV, Paragraph 2 and Rule VII, Paragraph 1, the Registrar was not in a position to "make the necessary corrections" to their applications for intervention, as contemplated by Rule VII, Paragraph 6(b). Only the Prospective Intervenors could provide the required signed Annex B Forms, which they did not. The Tribunal notes that compliance with this requirement was not onerous for each individual Prospective Intervenor. In addition, none of these Prospective Intervenors approached the Registry to inform the Tribunal that they had elected to submit an application for intervention without being represented by Me Cèbe. Therefore, because of their failure to provide the necessary Annex B Forms, these Prospective Intervenors are hereby notified, pursuant to Rule XIV, Paragraph 2 and Rule VII, Paragraph 6(c), that their submissions do not constitute applications for intervention within the meaning of Rule XIV and VII of the Tribunal's Rules of Procedure. As a consequence, the applications for intervention of these Prospective Intervenors cannot be admitted in the present proceeding.

[13] Prospective Intervenors nos. 12, 51, and 90 in Annex 1.

[14] Prospective Intervenor no. 2 in Annex 3.

44. Secondly, two additional Fund employees – one under an open-ended appointment[15] and another under an employment contract[16] – have indicated through counsel that they no longer wish to submit applications for intervention. The Tribunal therefore takes note of the fact that these two employees, who had also failed to submit an Annex B Form and a payroll statement, have withdrawn from the JAFI Manning (open-ended) and the JAFI Jara (contractual), respectively.

45. The other issues raised in the Registry's letter of October 22, 2025 were resolved, including corrections to the stated identity and Annex B Forms of Prospective Intervenors and the provision of previously missing Annex B Forms (except those referred to above).

(2) <u>Documents cited in the Joint Applications for Intervention and not included as attachments</u>

46. In his letter of October 22, 2025 to the Prospective Intervenors, the Registrar stated:

> . . . in the three joint applications for intervention, the prospective intervenors "seek the same relief and remedy as the ones sought in the Application" in the relevant case. This includes, *inter alia*:
>
> > Should the Managing Director decide that the requested measures shall not be implemented, in accordance with Article XIV 2 of the Statute of the Tribunal, the payment of an amount as compensation, corresponding to the estimated net present value of their lifetime compensation losses, following the same method of calculation as the one submitted in section I.B.2 of the Application in the [relevant case];
>
> In Section I.B.2 of both the *J. Manning* and the *J. Jara* Supplemented Applications, the Applicant relies on a payroll statement to calculate the estimated net present value of lifetime compensation losses that are alleged to have been incurred. While [Applicants] J. Manning and J. Jara have provided a payroll statement, none of the prospective intervenors have done so. Pursuant to Rule VII(3) [of the Tribunal's Rules of Procedure], "[t]he Applicant shall include as attachments all documents cited in the application in an original or in an unaltered copy and in a complete text unless part of it is obviously irrelevant." Pursuant to Rule XIV(1) and (2) [of the Tribunal's Rules of Procedure], the prospective intervenors are therefore requested to provide the missing supporting documentation in relation to their compensation claim.

[15] Prospective Intervenor no. 38 in Annex 1.

[16] Prospective Intervenor no. 1 in Annex 3.

47. Following the Registrar's above-quoted request, 34 Prospective Intervenors failed to submit a payroll statement.[17] After giving these Prospective Intervenors an opportunity to fulfill the requirements of Rule VII, Paragraph 1, the Registrar was not in a position to "make the necessary corrections" to their applications for intervention, as contemplated by Rule VII, Paragraph 6(b). Only the Prospective Intervenors could provide the required payroll statements, which they did not. Compliance with this requirement was no more burdensome for each individual prospective intervenor than the provision of a signed Annex B Form. No explanation was provided as to why the missing payroll statements could not be submitted; no request for an extension of time to submit them was made. In the circumstances, a further extension of time pursuant to Rule XIV, Paragraph 2 and Rule VII, Paragraph 6(a) did not seem warranted. Therefore, on the particular facts of this case, because of the Prospective Intervenors' failure to provide the required payroll statements, these Prospective Intervenors are hereby notified, pursuant to Rule VII, Paragraph 6(c), that their submissions do not constitute applications for intervention within the meaning of Rule XIV and VII of the Rules of Procedure. As a consequence, the applications for intervention of these Prospective Intervenors cannot be admitted in the present proceeding.

B. Admissibility Requirements

48. The Tribunal has analyzed the admissibility requirements for an application for intervention under Article X, Section 2(b) of the Tribunal's Statute and Rule XIV, Paragraph 1 of the Tribunal's Rules of Procedure as follows:

> Article X, Section 2(b) provides for "intervention by persons to whom the Tribunal is open under Section 1 of Article II, whose rights may be affected by the judgment." Hence, there are two statutory requirements for intervention. 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. Both of these statutory requirements are re-affirmed in Rule XIV, para. 1 of the Tribunal's Rules of Procedure.[18]

49. There is no dispute between the Prospective Intervenors and Respondent as to the admissibility of the applications for intervention filed by Fund employees under open-ended and fixed-term appointments. These employees meet both requirements: first, they fall within the

[17] Twenty-six Prospective Intervenors under the JAFI Manning (open-ended) (Prospective Intervenors nos. 1, 10, 12, 13, 21, 24, 26, 27, 30, 34, 35, 37, 38, 39, 46, 47, 54, 61, 64, 69, 78, 83, 84, 90, 91, and 99 in Annex 1); three Prospective Intervenors under the JAFI Jara (fixed-term) (Prospective Intervenors nos. 8, 10, and 15 in Annex 2); and five Prospective Intervenors under the JAFI Jara (contractual) (Prospective Intervenors nos. 1, 2, 4, 10, and 13 in Annex 3).

[18] *Mr. "P" (No. 2), Applicant v. International Monetary Fund, Respondent*, Judgment No. 2001-2 (November 20, 2001), para. 49. *See also Ms. "G", Applicant and Mr. "H", Intervenor v. International Monetary Fund, Respondent*, IMFAT Judgment No. 2002-3 (December 18, 2002), para. 25. (Emphasis added.)

definition of “staff member” in Article II, Sections 1(a) and 2(c) of the Statute[19] and therefore within the Tribunal’s jurisdiction *ratione personae*; second, their rights may be affected by the judgment to be given by the Tribunal. Like Applicants J. Manning and J. Jara, these Prospective Intervenors would be affected by any decision by the Tribunal with respect to the legality of the 2025 Review of Staff Compensation.

50. Respondent only challenges the admissibility of the application for intervention filed by contractual employees. Its challenge focuses on the Prospective Intervenors’ alleged failure to fall within the Tribunal’s jurisdiction *ratione personae*. The two statutory requirements that the contractual employees would have to meet for their joint application for intervention to be admissible are examined in turn.

(1) The Tribunal’s jurisdiction *ratione personae*

51. Article II, Section 1 of the Tribunal’s Statute contemplates only two categories of employees upon whose application the Tribunal is competent to pass judgment:

> 1. A “member of the staff” who challenges the legality of an administrative act adversely affecting him or her; and
>
> 2. An “enrollee in, or beneficiary under, any retirement or other benefit plan maintained by the Fund as employer challenging the legality of an administrative act concerning or arising under any such plan which adversely affects the applicant.”

52. The definition of “member of the staff” provided in Article II, Section 2(c) of the Tribunal’s Statute is limited to three categories of individuals:

> (i) any person whose current or former letter of appointment, whether regular or fixed-term, provides that he [or she] shall be a member of the staff;
>
> (ii) any current or former assistant to an Executive Director; and

[19] Article II, Sections 1(a) and 2(c) of the Statute provides as follows:

1. The Tribunal shall be competent to pass judgment upon any application:

   a. by a member of the staff challenging the legality of an administrative act adversely affecting him; . . .

2. For purposes of this Statute: . . .

   c. the expression “member of the staff” shall mean:

      (i) any person whose current or former letter of appointment, whether regular or fixed-term, provides that he shall be a member of the staff; . . .

> (iii) any successor in interest to a deceased member of the staff as defined in (i) or (ii) above to the extent that he [or she] is entitled to assert a right of such staff member against the Fund.

53. Contractual employees are not included in any of the three above-mentioned limited categories. The Prospective Intervenors who are contractual employees in the present proceeding do not appear to claim that they are. The Tribunal also notes that such a claim would in any event be difficult to reconcile with the Commentary on the Statute, which draws up a list of individuals and entities that fall outside the definition of "members of staff":

> The statute would not allow unsuccessful candidates to the staff to bring claims before the tribunal. Nor would *persons employed under contract to the Fund* have access to the tribunal. The Staff Association would not be entitled to bring actions in its own name before the tribunal.[20]

54. The only other way the Tribunal would be "open under Section 1 of Article II [of the Statute]" is if the Prospective Intervenors qualified as "enrollee[s] in, or beneficiar[ies] under, any retirement or other benefit plan maintained by the Fund as employer."

55. Relying on IMFAT Judgment No. 2023-3 in the *"VV"* case, the Prospective Intervenors succinctly argue that "[s]ince contractual employees have a right to the 'structure increase' under the CCBR Rules, they should have access to the Tribunal, and be allowed to intervene in the case." In so doing, they appear to address only one of the two statutory requirements, i.e., the "rights [that] may be affected by the judgment." As to the other statutory requirement – the Tribunal's jurisdiction *ratione personae* – reliance on IMFAT Judgment No. 2023-3 raises the issue whether the Prospective Intervenors implicitly contend that they qualify as enrollees or beneficiaries under a Fund benefit plan for purposes of Section 1(b) of Article II of the Tribunal's Statute. However, beyond quoting IMFAT Judgment No. 2023-3, the Prospective Intervenors have not offered any argument in support of this implicit contention.

56. In IMFAT Judgment No. 2023-3, the applicant argued that he was "in respect of workers' compensation, 'an enrollee in, or beneficiary under, any retirement or other benefit plan

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[20] Commentary on the Statute, pp. 15-16. (Emphasis added.) *See also Mr. "A", Applicant v. International Monetary Fund, Respondent*, IMFAT Judgment No. 1999-1 (August 12, 1999), para. 47. In January 2022, the Fund appointed an External Panel of Experts which was tasked with conducting an independent review of the Fund's Dispute Resolution System (DRS). In the 2022 External Panel of Experts' Review of the IMF's DRS, the Panel noted, *inter alia*: "Contractual employees do not have access to the Grievance Committee or the Administrative Tribunal. Instead, the Fund has established a system of final and binding arbitration for cases filed by contractual employees, with such cases being heard by a sole arbitrator. The Panel notes that other organizations do not distinguish between staff and contractual employees for the purposes of the jurisdiction of the Tribunal; there does not appear to be any reason in principle why all employees who wish to challenge a decision regarding their employment should not have access to the same process for doing so." (External Panel of Experts' Review of the IMF's Dispute Resolution System, June 9, 2022 ("2022 DRS Review"), para. 58, p. 29.) (Emphasis removed.) *See also* 2022 DRS Review, item 42, p. 46.

maintained by the Fund as employer' in terms of Article II, Section 1(b) [of the Statute]."[21] The Tribunal held that: (i) the plain language of Article II, Section 1(b), does not exclude non-staff member employees such as contractual employees;[22] (ii) "employment benefit plans [being] necessarily . . . anchored in the Fund's internal law rather than represent[ing] an individualized term of employment [in an employment contract],"[23] "Applicant's right to seek workers' compensation . . . is not an individually-bargained-for term of his contract but inheres instead in the Fund's internal law";[24] and (iii) the Fund's workers' compensation policy (General Administrative Order No. 20) provides that workers' compensation disputes will be channeled through the Fund's formal dispute resolution system.[25]

57. While the Tribunal had no difficulty finding in *"VV"* that the workers' compensation system qualified as a benefit plan,[26] the question arises as to what Fund benefit plan the Prospective Intervenors would be relying upon in the present case. They do not identify any such plan in their Joint Application for Intervention, which instead focuses on salary, as does Mr. Jara's Application. According to Mr. Jara and the Prospective Intervenors, the Challenged Decision "did not apply to the Applicant's salary a further adjustment aimed at bringing the 'Comparatio' back into the range, as provided by the 'Safeguard Mechanism' of the Comprehensive Compensation Benefits Rules."

58. Moreover, the Commentary on the Statute provides examples of Fund benefit plans within the meaning of Article II, Section 1(b): they include "the Staff Retirement Plan (SRP), the Medical Benefits Plan (MBP), and the Group Life Insurance Plan."[27] Although, as pointed out in *"VV"*,[28] the Commentary's list of Fund benefit plans is not exhaustive,[29] the category of potential applicants under Article II, Section 1(b) is not limitless:

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[21] *"VV"*, IMFAT Judgment No. 2023-3, para. 42.

[22] *Id.*, paras. 47-52.

[23] *Id.*, para. 55.

[24] *Id.*, para. 56.

[25] *Id.*, paras. 60-64.

[26] *Id.*, para. 58.

[27] Commentary on the Statute, p. 13.

[28] *"VV"*, IMFAT Judgment No. 2023-3, para. 49 quoting "*Estate of Mr. "D" Applicant v. International Monetary Fund, Respondent (Admissibility of the Application)*, IMFAT Judgment No. 2001-1 (March 30, 2001), para. 63.

[29] In *"VV"*, the Tribunal cited earlier cases in which different categories of non-staff members claimed to have rights under specific Fund benefit plans, namely the SRP and the MBP. (See *"VV"*, IMFAT Judgment No. 2023-3, para. 49 and fn. 9, referring to *Ms. "M" and Dr. "M", Applicants v. International Monetary Fund, Respondent*, IMFAT Judgment No. 2006-6 (November 29, 2006), fn. 1; *Mr. "P" (No. 2), Applicant v. International Monetary Fund, Respondent*, IMFAT Judgment No. 2001-2 (November 20, 2001), paras. 51-65; and "*Estate of Mr. "D" Applicant v.*
(continued)

> This provision would allow individuals who are not members of the staff but who have rights under these [Fund benefit] plans to bring claims before the tribunal concerning decisions taken under or with respect to the plan. . . . Such individuals would, however, be entitled to assert claims *only* with respect to decisions arising under or concerning the Fund's retirement or benefit plans; they *would not have the right to challenge other types of administrative acts before the tribunal*.[30]

59. In *Ms. K. Abu Ghazaleh*, the Tribunal held that "the arbitral dispute resolution system that functions as an alternative to recourse to the Tribunal for contractual employees" could not qualify as a "benefit plan" within the meaning of Article II, Section 1(b) of the Statute, contrary to the applicant's position in that case.[31]

60. As a general rule, the Tribunal recalls that "international administrative tribunals are tribunals of limited jurisdiction and may not exercise powers beyond those granted by their statutes."[32]

61. While, as noted above, the Joint Applications for Intervention focus on salary adjustment, the Prospective Intervenors have 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. The Tribunal has not been presented with, nor has it identified, any relevant Fund rule that equates "benefit plan" and "salary" or suggests that the former encompasses the latter.

62. The Tribunal concludes that in the present proceeding, the Prospective Intervenors who are contractual employees do not meet the requirement of jurisdiction *ratione personae* provided in Article II, Section 1(b) of the Tribunal's Statute and Rule XIV, Paragraph 1 of the Tribunal's Rules of Procedure.

(2) A right that may be affected by the judgment to be given by the Tribunal

63. Since the Prospective Intervenors do not meet the requirement of jurisdiction *ratione personae*, it is unnecessary for the Tribunal to ascertain whether the second requirement would be satisfied. The Tribunal would merely note that the Fund has not challenged the admissibility of the

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International Monetary Fund, Respondent (Admissibility of the Application), IMFAT Judgment No. 2001-1 (March 30, 2001), para. 63. However, these cases do not discuss the meaning of the phrase "benefit plan" and whether it could include "salary."

[30] Commentary on the Statute, p. 13. (Emphasis added.)

[31] *See Ms. K. Abu Ghazaleh, Applicant v. International Monetary Fund, Respondent (Admissibility of the Application)*, IMFAT Judgment No. 2015-2 (November 11, 2015), paras. 39-41.

[32] *Mr. "A"*, IMFAT Judgment No. 1999-1, para. 56. *See also Mr. "P" (No. 2)*, IMFAT Judgment No. 2001-2, para. 120; *Ms. K. Abu Ghazaleh*, IMFAT Judgment No. 2015-2, para. 50.

JAFI Jara (contractual) on that basis. Rather, the Fund has challenged what it sees as the Prospective Intervenors' "false premise that the mere existence of a right is sufficient to enjoy the jurisdiction of the Tribunal." While it is clear in this proceeding that the application of Article II, Section 1(b) of the Statute and Rule XIV, Paragraph 1 of the Rules of Procedure lead to the conclusion that the Prospective Intervenors under employment contracts fall outside of the Tribunal's jurisdiction *ratione personae*, the Tribunal would observe that, in so far as the rights of contractual employees may be affected by a judgment on the Fund's staff compensation decision,[33] the rationale for restricting access to the forum that would allow contractual employees to contest such decision is less clear. The Tribunal notes that the ongoing implementation of the 2022 DRS Review may provide further insights into this issue.[34]

64. In view of the above, the Tribunal concludes that the Joint Application for Intervention filed by Fund contractual employees in *J. Jara v. IMF* (referred to in the present Order as the JAFI Jara (contractual)) cannot be admitted and is therefore denied.

C. The Prospective Intervenors' Requests for Anonymity

(1) The Prospective Intervenors' Position

65. The Prospective Intervenors have all submitted the same arguments in support of their requests for anonymity:

> [T]hey [r]equest anonymity, pursuant to Rule XXII of the Rules of Procedure, since, given their status within the IMF and the possible retaliation in terms of career prospects, their privacy ought to be protected, and their name and personal details not be disclosed to a wide audience when the Judgment is published.

(2) Respondent's Position

66. In Respondent's view, the Prospective Intervenors have not met the burden of showing "good cause" for protecting their privacy, as required under Rule XXII of the Rules of Procedure.

(3) Tribunal's Decision on the Requests for Anonymity

67. Pursuant to Rule XXII of the Tribunal's Rules of Procedure, the Tribunal may grant anonymity provided that "good cause" for doing so has been shown. In the *Mr. E. Weisman* case where "Applicant [brought] a direct challenge to a rule of the Fund . . . [and his] personal circumstances [were] not pertinent to the Tribunal's consideration of the essential issue of the

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[33] *See* Comprehensive Compensation and Benefits Review–Revised Proposed Decision, December 11, 2019, paras. 17 *et seq*.

[34] *See* fn. 20 above.

case,"[35] the Tribunal rejected Applicant's request for anonymity. Further, an allegation of possible retaliation will not amount to "good cause" if it is unsubstantiated. The "risk of retribution," which was one of the two arguments invoked by Mr. E. Weisman in support of his request for anonymity,[36] was not considered "good cause" for the following reasons:

> The Tribunal recently has reaffirmed that ". . . an applicant's bare assertion that contesting a decision before the Tribunal may lead to adverse employment consequences does not, of itself, justify granting anonymity pursuant to Rule XXII." *Mr. "HH"*, para. 40, citing *Ding*, para. 11. . . . In the view of the Tribunal, granting anonymity to applicants in Tribunal proceedings must not be permitted to become a substitute for the robust enforcement of the Fund's policy against retaliation. Should a staff member suffer retaliation as a result of resort to the Fund's formal or informal dispute resolution mechanisms, that staff member will be entitled to appropriate relief through the procedures established by the Fund.[37]

68. In the more recent *"XX"* Judgment on the Admissibility of the Application, the Tribunal reiterated that it "does not accept as ground for anonymity Applicant's unsubstantiated assertion of fear of retaliation for pursuing her case in the Tribunal."[38]

69. In the present case, the Prospective Intervenors have not adduced any evidence of a risk of retaliation, whether potential or actual. Nor have they explained why such risk would be relevant to them and not to Applicants who have not sought anonymity.

70. In view of the above, the Prospective Intervenors' Requests for Anonymity are denied.

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[35] *Mr. E. Weisman, Applicant v. International Monetary Fund, Respondent,* IMFAT Judgment No. 2014-2 (February 26, 2014), para. 14.

[36] The other argument was that "Respondent allegedly has included 'inflammatory mischaracterizations' in its Answer that might be disclosed in the Tribunal's Judgment." (*Mr. E. Weisman*, IMFAT Judgment No. 2014-2, para. 11.)

[37] *Id.*, para. 16. *See also Mr. "QQ", Applicant v. International Monetary Fund, Respondent (Motion to Dismiss in Part)*, IMFAT Judgment No. 2020-1 (November 2, 2020), para. 13.

[38] *"XX", Applicant v. International Monetary Fund, Respondent (Admissibility of the Application)*, IMFAT Judgment No. 2024-2 (June 7, 2024), para. 33.

ORDER

71. For the reasons set out above:

a. The Joint Application for Intervention filed by Fund employees under an open-ended appointment in *J. Manning v. IMF* (referred to in the present Order as the JAFI Manning (open-ended)) is admitted except with respect to the employees whose application for intervention is identified as “not admissible” in Annex 1 to this Order.

b. The Joint Application for Intervention filed by Fund employees under a fixed-term appointment in *J. Jara v. IMF* (referred to in the present Order as the JAFI Jara (fixed-term) is admitted except with respect to employees whose application for intervention is identified as “not admissible” in Annex 2 to this Order.

c. The Joint Application for Intervention filed by Fund contractual employees in *J. Jara v. IMF* (referred to in the present Order as the JAFI Jara (contractual)) is denied.

d. The Prospective Intervenors’ Requests for Anonymity are denied.

e. If, in light of the Tribunal’s decision on the Requests for Anonymity at paragraph 71(d) above, any Intervenor wishes to withdraw from the relevant Joint Application for Intervention, that Intervenor shall inform the Tribunal of his/her withdrawal by **Tuesday, September 1, 2026** at the latest.

f. The present Order shall be circulated within the Fund and published on the Tribunal’s website without its Annexes 1, 2, and 3, which identify the 129 Prospective Intervenors.

g. Any Intervenor who withdraws from the relevant Joint Application for Intervention in accordance with the procedure outlined at paragraph 71(e) above, shall remain anonymous.

h. Any Intervenor who fails to inform the Tribunal of his/her withdrawal in accordance with the procedure outlined at paragraph 71(e) above, i.e., by **Tuesday, September 1, 2026** at the latest, shall not have the benefit of anonymity if that Intervenor elects to withdraw from the relevant Joint Application for Intervention at a later date.

i. The Fund employees whose application for intervention was denied shall remain anonymous.

Nassib G. Ziadé, President

Andrew K.C. Nyirenda, Judge

Kieran Bradley, Judge

/s/

Nassib G. Ziadé, President

/s/

Paul Jean Le Cannu, Registrar

Washington, D.C.
August 4, 2026