

REGISTRY'S SUMMARY¹: *“UU”, Applicant v. International Monetary Fund, Respondent (Admissibility of the Application)*, IMFAT Judgment No. 2022-3 (December 22, 2022)

SUMMARY DISMISSAL – REGULATORY DECISION – INDIVIDUAL DECISION – EXHAUSTION OF CHANNELS OF ADMINISTRATIVE REVIEW – ANONYMITY

Applicant challenged the Fund's decision to deny his request to be reclassified from a Fungible Macroeconomist to a Financial Sector Expert. The Tribunal granted Applicant's request for anonymity (Rule XXII of the Tribunal's Rules of Procedure), finding that he had shown “good cause” for making exception to the ordinary rule that the names of parties to a judicial proceeding should be made public, given that the case was one in which an applicant's professional competencies were at issue.

The Fund responded to the Application with a Motion for Summary Dismissal (Rule XII of the Tribunal's Rules of Procedure), which suspends the exchange of pleadings on the merits of the case. The Tribunal's Judgment was accordingly limited to the question of the admissibility of the Application.

The Fund contended that the Application was inadmissible on a number of grounds, including that Applicant had not met the requirement of Article V of the Tribunal's Statute that all available channels of administrative review must be exhausted before an application is filed with the Tribunal. Applicant had chosen to bypass the Grievance Committee and filed an Application directly with the Tribunal, contending that he was challenging a “regulatory” as well as an “individual” decision of the Fund.

The Tribunal explained that while it is competent to pass judgment on any individual or regulatory decision taken in the administration of the staff of the Fund (Statute, Article II, Sections 1(a), 2(a) and 2(b)), the statutory requirements that must be satisfied differ, depending on whether an applicant challenges an individual decision, a regulatory decision, or both. With respect to a challenge to an individual decision, an application must be filed with the Tribunal, within three months after all available channels of administrative review have been exhausted or, in the absence of such channels, within three months after the notification of the decision. (Statute, Article V and Article VI, Section 1.) Regarding a challenge solely to a regulatory decision, an application may be filed directly with the Tribunal, within three months after the announcement or effective date of the decision, whichever is later. (Statute, Article VI, Section 2.) Lastly, concerning a challenge to both an individual and a regulatory decision, the Grievance Committee must first hear the case and dispose of the issues over which it has jurisdiction before an application is filed with the Tribunal. (Statute, Article VI, Section 2, and Commentary on the Statute.)

¹ 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.

The Tribunal observed that although Applicant asserted that he was challenging a regulatory decision, he also expressly stated that the case involved an individual decision. The Fund, for its part, contended that Applicant did not contest a regulatory decision at all but only an individual decision, to which he had failed to launch a timely challenge. The Tribunal held that it did not need to determine those additional questions to dispose of the Motion for Summary Dismissal: “What is clear and dispositive is that Applicant’s case is not admissible for review because, even if he does challenge a regulatory decision, he does so in the context of a challenge to an individual decision and such a decision must be first pursued at the Grievance Committee.” (Para. 23.)

Accordingly, the Motion for Summary Dismissal was granted, and the Application was dismissed.