

ORDER

of 12 September 2025

In Case ESMAT 2/2025

William Hyldedahl, Appellant, member of staff of the European Stability Mechanism
self-represented

v

European Stability Mechanism, Respondent

represented by João Sousa Gíão, General Counsel of the European Stability Mechanism

Concerning the Appeal lodged by the Appellant on 3 July 2025

The Administrative Tribunal of the European Stability Mechanism

Composed, in accordance with Article 8(1) of the Statute, of Virginia MELGAR, President of the Tribunal, and Judges Celia GOLDMAN and Gerhard ULLRICH

Adopts the present **ORDER**.

Considering that on 17 July 2025 the Appellant clarified that he was not assisted by counsel and that he does not seek anonymity pursuant to Article 19(2) of the Rules of Procedure,

Having notified the Appellant and the Respondent on 10 September 2025, following a request of 8 September 2025 by the Appellant to file a further written pleading, that the President, in consultation with the panel, had decided that there would be no further pleadings in the case, and

Having considered the written Appeal of the Appellant and the Reply of the ESM,

I. FACTS AND PROCEDURE

ADVISORY COMMITTEE PROCEEDINGS

1. The present Appeal arises in the context of a series of whistleblower reports that the Appellant filed pursuant to the ESM's Whistleblower and Witness Protection Policy ("WWPP").
2. On 17 June 2024, the Appellant filed a 1st whistleblower report. On 26 November 2024, while the procedure relating to the 1st whistleblower report was still ongoing, the Appellant filed a 2nd whistleblower report. The 2nd whistleblower report alleged misconduct by the Head of Internal Audit in relation to the handling of the investigation of the 1st whistleblower report.
3. On 11 December 2024, the Compliance and Data Protection Office ("CDPO") notified the Appellant that it had closed the procedure relating to the 2nd whistleblower report, on the grounds that the facts alleged did not amount to serious misconduct. This communication also advised the Appellant that the procedure in relation to the 1st whistleblower report was continuing.
4. On 29 January 2025, the Appellant filed with the Advisory Committee his first Request for an Advisory Opinion. That Request challenged the 11 December 2024 decision to close the procedure in relation to the 2nd whistleblower report.
5. On 30 April 2025, the Appellant filed his 3rd whistleblower report, from which the instant controversy directly arises. The 3rd whistleblower report alleged retaliation by the Head of Internal Audit in the context of the Appellant's 1st whistleblower report.
6. On 19 May 2025, the Managing Director notified the Appellant of his decision on the Appellant's 1st whistleblower report, concluding that the Appellant's allegations were not substantiated.
7. On 26 May 2025, the Appellant submitted to the Advisory Committee his "Consolidated Request" for an Advisory Opinion challenging: (a) the CDPO's 11 December 2024 decision to close the procedure related to the 2nd whistleblower report; and (b) the Managing Director's decision of 19 May 2025 on the 1st whistleblower report.
8. On 17 June 2025, the CDPO notified the Appellant of its decision to close the procedure in respect of his 3rd whistleblower report, concluding: ". . . in consultation with the General Counsel, . . . that your whistleblowing report does not relate to an Integrity Violation or Behavioural Misconduct so that in line with the Operating procedure – Handling Reports of Alleged Integrity Violations and Behavioural Misconduct, we hereby close the matter".
9. Thereafter, and on the same date (17 June 2025), the Appellant made a new Request to the Advisory Committee for an Advisory Opinion. The new Request concerned the CDPO's and General Counsel's final decision to close the 3rd whistleblower report without investigation. The Appellant requested the Advisory Committee that ". . . this appeal be joined with my ongoing consolidated appeal . . . , as it arises from the same factual and legal matrix, involves the same institutional actors, and reinforces the systemic procedural concerns already before the Committee".

10. On 3 July 2025, the Secretary of the Advisory Committee Panel (the “Secretary”), established to review the ongoing case, advised the Appellant that the “Panel has examined in detail, in its meeting of 1 July 2025, the request for an advisory opinion submitted by you (the ‘Complainant’) on 17 June 2025 (the ‘New Request’)”.
11. The Secretary further reported to the Appellant that the Panel was “presently in the process of reviewing” the pending case and was of the view that:
 - “(1) the claims put forward by the Complainant in the New Request, including that of retaliation by the investigator, have essentially already been made and are based on the very same matter that is currently under review by the Panel and as such cannot be brought anymore to the Panel; and
 - (2) allowing the New Request to be joined with [the pending] case . . . would be *de facto* equivalent to a modification of the request for the advisory opinion which is also not possible at this stage of the proceedings”.
12. The message from the Secretary to the Appellant also stated: “Please note that this email is not an advisory opinion in the meaning of the ESM Staff Rules but is issued as an advance information to the parties in the [pending] case . . . i.e. the Complainant and the ESM, who is therefore not expected to provide ESM[’s] Comments on the New Request. The advisory opinion that the Panel will issue in [the pending] case . . . will provide further reasoning behind the Panel’s decision on the New Request”.
13. It is the 3 July 2025 communication of the Secretary of the Advisory Committee Panel that the Appellant seeks to appeal to the Tribunal.

APPEAL TO THE TRIBUNAL - POSITIONS OF THE PARTIES

14. On 3 July 2025, the Appellant filed a “protective appeal” with the Tribunal, stating: “The Panel has not issued a formal advisory opinion on this refusal, and the timing of its full reasoning remains uncertain. Given the six-week statutory appeal window, the Appellant is compelled to file this protective appeal now to preserve his procedural rights and the Tribunal’s jurisdiction”. The Appellant asserts that what he characterizes as the Advisory Committee Panel’s refusal to consider and to join the most recent (17 June 2025) Request for an Advisory Opinion to the currently pending (26 May 2025) Request for an Advisory Opinion, “. . . constitutes the exhaustion of all internal remedies with respect to the ESM’s 17 June [2025] administrative decision to reject the Appellant’s [3rd] whistleblower report”.
15. The Appellant argues that the Advisory Committee Panel has denied him access to internal redress, contrary to Article 24 of the Staff Rules; that ESM has failed to discharge its duty to protect a whistleblower from retaliation; and that the Advisory Committee Panel has further violated the Appellant’s right to an effective remedy. The Appellant seeks as relief that the Tribunal declare the Appeal admissible; suspend the Tribunal proceedings until a final decision on the pending Request for an Advisory Opinion; order joinder of this Appeal with any future Appeal in respect of the pending Request; and reserve the Appellant’s right to make further submissions on the merits.
16. The Respondent, for its part, asserts that the Tribunal should dismiss the Appeal as “manifestly inadmissible”, pursuant to Article 20 of the Rules of Procedure. The 3 July 2025

email to the Appellant from the Advisory Committee Panel Secretary is not an “express or implied decision of the Managing Director pursuant to Article 26(3) of the Staff Rules rejecting, wholly or in part, an internal appeal” (Statute, Article 2(2)). No such decision has been issued by the Managing Director, as no Advisory Opinion has been provided by the Advisory Committee. The Panel Secretary’s email is not such advisory opinion and does not change the legal situation of the Appellant. The allegation that the Advisory Committee Panel has denied the Appellant access to internal redress is without merit.

II. APPLICABLE LAW

17. Article 24(2)(a) of the ESM Staff Rules reads as follows:

“The Advisory Committee is competent to . . . [d]eliver an advisory opinion to the Managing Director on any individual dispute related to an individual decision affecting the Complainant and that the latter considers as adverse to his rights.”

18. Article 2(2) of the Tribunal’s Statute in relevant part reads as follows:

“[A]n appeal to the Tribunal shall only be admissible if it is directed against an express or implied decision of the Managing Director pursuant to Article 26(3) of the Staff Rules rejecting, wholly or in part, an internal appeal.”

19. Article 20 of the Tribunal’s Rules of Procedure reads as follows:

“By reasoned order, the Tribunal may dismiss at any time an appeal that is manifestly inadmissible, outside the jurisdiction of the Tribunal or manifestly lacking in any basis in law.”

III. MANIFEST INADMISSIBILITY

20. It is evident from the 3 July 2025 email from the Advisory Committee Panel Secretary to the Appellant that there was no final decision of the Advisory Committee but only an “advance information to the parties” by the Secretary concerning the Appellant’s 17 June 2025 Request for an Advisory Opinion. Accordingly, the Tribunal cannot sustain the Appellant’s view that the Secretary’s communication “. . . constitutes the exhaustion of all internal remedies with respect the ESM’s 17 June [2025] administrative decision to reject the Appellant’s whistleblower report.” The communication that the Appellant seeks to contest “. . . does not in and of itself change the Appellant’s legal situation.”¹

21. As there has been no final decision of the Advisory Committee, *a fortiori* there has been no decision of the Managing Director “rejecting, wholly or in part, an internal appeal”, as required by Article 2(2) of the Statute. The Appeal is therefore manifestly inadmissible.

IV. DECISION

22. For these reasons, the Administrative Tribunal of the European Stability Mechanism **orders**:

The Appeal of 3 July 2025 is dismissed as “manifestly inadmissible” in terms of Article 20 of the Tribunal’s Rules of Procedure.

¹ Judgment in Case ESMAT 1/2024 (9 July 2025), para. 62.

Virginia MELGAR, (President)

(signed)

Celia GOLDMAN

(signed)

Gerhard ULLRICH

(signed)