

ORDER No 2

of 29 June 2026

In Case ESMAT 4/2025

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

v

European Stability Mechanism, Respondent

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

Concerning the Application to Intervene lodged by AE on 27 February 2026

The Administrative Tribunal of the European Stability Mechanism

Adopts the present **ORDER** .

I. INTRODUCTION

1. On 2 December 2025, William Hyldedahl (“the Appellant”) presented an appeal against the European Stability Mechanism (“ESM”) challenging the ESM disposition of three reports filed by the Appellant pursuant to the Whistleblower and Witness Protection Policy.
2. A notice announcing the lodging of the appeal was published on 28 January 2026.
3. On 27 February 2026, AE, a former member of staff of the ESM (“the Applicant”) submitted an application to intervene in the present proceedings in accordance with Rule 27(2) of the Tribunal’s Rules of Procedure.

4. In his statement of views of 4 March 2026, the Appellant indicated that he was taking no position for or against the admissibility of the application and that he trusted the Tribunal to take the appropriate decision. In its statement of views of 17 March 2026, the ESM contended that the application was inadmissible.
5. By letter of 8 May 2026, the parties were informed that the panel appointed to hear this case had decided that the Appeal should be referred to plenary in accordance with Article 8(2) of the Statute of the Tribunal.
6. The Applicant who will, on grounds of convenience only, be referred to with the masculine pronoun throughout the present Order, has requested that his name and identifying details be redacted from all published documents relating to the present application. The Tribunal has decided to accede to this request.

II. ADMISSIBILITY OF THE APPLICATION TO INTERVENE

(a) Legal background

7. Rule 27(1) of the Tribunal's Rules of Procedure provides for the issuance of "a notice summarising the issues raised in an appeal".
8. Rule 27(2) provides as follows:

"Any person to whom the Tribunal is open under Article 2 of the Statute may, within 30 days of the issuance of this notice, apply to intervene in a case on the ground that he or she has a right which may be affected by the decision to be adopted by the Tribunal. Such person shall for that purpose draw up and file an application to intervene in accordance with the conditions laid down in Rule 13 *mutatis mutandis*."
9. This provision lays down two substantive conditions, *ratione personae* and *ratione materiae*, for the Tribunal's jurisdiction to consider an application in intervention, that is:
 - The applicant must be a person to whom the Tribunal is open under Article 2 of the Statute, and
 - The applicant must have a right which may be affected by the decision in the proceedings at issue.

10. Rule 27(2) also lays down a temporal condition of admissibility (“30 days from the issuance of th[e] notice”) and formal requirements (“conditions laid down in Rule 13 *mutatis mutandis*”).

(b) Positions of the parties

11. The Applicant has argued that the Tribunal will be called upon to interpret, *inter alia*, the following matters:

- “the applicable standard of proof in internal investigations into whistleblowing reports;
- the scope of the right to be heard;
- the distinction between administrative investigations and disciplinary proceedings;
- allegations of retaliation following protected whistleblower activity;
- questions concerning the integrity and independence of investigative processes”.

12. The ESM contends that an applicant “should demonstrate that he or she has a right individually conferred on him/her by decisions taken by the ESM, which may be affected by the decision to be adopted by the Tribunal”. In its view, “[s]hould the Tribunal maintain or annul the ... contested decision in Case [ESMAT] 4/2025, there would be no legal consequence on the [Applicant’s] individual situation or rights.” The ESM concludes that the application should be declared inadmissible.

(c) Findings of the Tribunal

13. The right of intervention under Rule 27(2) must be interpreted in light of Article 2 of the Statute. It is obvious that the Tribunal cannot have a wider material jurisdiction in the framework of intervention proceedings than that which it enjoys in relation to an appeal. If this were not the case, an intervener could in theory enlarge the scope or modify the character of the factual and legal matters of which the Tribunal is seised. The Tribunal would therefore no longer be deciding the “appeal”, but entirely different matters dictated by the submissions of the intervener(s), in the consideration of which the written pleadings of the Appellant and the ESM may be of only marginal relevance.

14. It follows from Rule 27(2), interpreted in the light of Article 2 of the Statute, that an intervener may not act in pursuit of some abstract general right or “in the interests of the law”, but must demonstrate that, as of the point in time the application to intervene is submitted, the Tribunal’s future decision in the particular proceedings

may directly affect, positively or negatively, the intervener's legal situation in a manner analogous to its effect on the Appellant.

15. In the present case, the Applicant is relying on "pending or contemplated proceedings concerning the merits of [his] harassment and whistleblower complaints", which are to be dealt with under the same legal framework as that applicable in the principal proceedings in the present case.
16. The Applicant is not claiming, however, that he was a party to any of the administrative proceedings which gave rise to the present Appeal, that is, the whistleblowing reports whose rejection the Appellant is contesting, or the alleged data-protection breaches or other "adverse acts" of which the Appellant is complaining, such that the annulment of any of the Contested Decisions may affect the Applicant's legal situation in a manner analogous to the effect of the Tribunal's decision on the legal situation of the Appellant. Indeed, while the Applicant refers to current or future proceedings, it is obvious that in the context of the present case the Tribunal will only be examining proceedings which have already terminated some time ago.
17. The Applicant contends that his interest is not speculative or indirect, in that the Tribunal's ruling on the matters he outlines would "directly affect [his] right to have [his] harassment complaint assessed under the correct legal standard and with full respect for the applicable investigative standards".
18. Insofar as he has standing to take proceedings before the Tribunal, the Applicant already enjoys the rights to the application of a legally correct standard of proof and to an impartial and independent investigation in whistleblowing proceedings. He has, on the other hand, not demonstrated the existence of any right specific to his own legal situation which would be affected by the Tribunal's decision in the present proceedings.
19. While the Tribunal's judgment in the present case may influence the ESM's application of the legal framework for the conduct of investigations, including as regards the matters the Applicant has outlined, his interest in the outcome of the present proceedings is no different from that of any other person to whom the Tribunal is open under Article 2 of the Statute.
20. As the Applicant has not shown that he enjoys a right which may be affected by the decision to be adopted by the Tribunal in the sense of Rule 27(2), the present application to intervene is inadmissible as being outside the Tribunal's jurisdiction.

III . DECISION

21. The application presented by AE on 27 February 2026 to intervene in Case ESMAT 4/2025 is rejected as inadmissible.

Kieran Bradley, (President)

(signed)

Tonia Gillett, (Registrar)

(signed)