



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case Nos. 2025-1990, 2025-1991 & 2025-1994

**Jonathan Hall,
Khalilah Hackman,
Giovanni Ardito
(Applicants)**

v.

**Secretary-General of the International Seabed Authority
(Respondent)**

Order No. 591 (2025)

1. The United Nations Appeals Tribunal (UNAT or Appeals Tribunal) is seized of three separate “Motions for Interim Measures” (Motions) filed on 27 January 2025 by Mr. Jonathan Hall (Case No. 2025-1990), Ms. Khalilah Hackman (Case No. 2025-1991), and Mr. Giovanni Ardito (Case No. 2025-1994) (Applicants) respectively, concerning the decision by the Secretary-General of the International Seabed Authority (ISA) to “withdraw” their respective Letters of Appointment.

2. Noting that all three motions challenge the failure by the ISA Joint Appeals Board (JAB) to dispose of the Applicants’ requests for suspension of action concerning the “withdrawal” of their respective signed Letters of Appointment, I find that it is appropriate for the fair and expeditious management of these cases to consolidate them, pursuant to Article 18bis(1) of the Appeals Tribunal Rules of Procedure. I therefore direct that these cases be consolidated for the purpose of the present Order only.

Facts and Procedure

3. In December 2024, Mr. Hall, Ms. Hackman and Mr. Ardito received and counter-signed letters of appointment appointing them to positions with ISA effective 1 January 2025, for a fixed term of two years. Mr. Hall was appointed to the position of Partnership Coordinator at the P-3 level, Ms. Hackman was appointed to the position of

Legal Counsel at the D-2 level, and Mr. Ardito was appointed to the position of Policy and Planning Officer (Capacity Development) at the P-3 level.

4. On 1 January 2025, the new Secretary-General of ISA officially commenced her appointment. That same day, the Applicants assumed their respective roles.

5. On 3 January 2025, the Applicants each received a letter from the new ISA Secretary-General dated 2 January 2025 advising that ISA was unable to complete the onboarding processes of their respective appointments due to irregularities in the selection exercises and due to budget and human resources considerations. The letters further advised that should the positions be re-advertised, Mr. Hall, Ms. Hackman and Mr. Ardito would automatically be shortlisted without the need to reapply.

6. On 6 January 2025, the Applicants each filed a request for administrative review to the Secretary-General, which, they submit, has to date not been acknowledged despite follow up requests for confirmation of receipt.

7. On 7 January 2025, the Applicants together with one other staff member jointly submitted a request for suspension of action requesting the JAB, in accordance with ISA Staff Rule 11.2(c)(i), to order the Administration to *inter alia* refrain from taking any steps to “withdraw” the appointments and/or to implement the purported withdrawal of the appointments, and refrain from conducting recruitment for the posts to which they had been appointed in December 2024.

8. At the time of their submission, the Applicants contend that the JAB had failed to acknowledge the request for suspension of action and to advise of the constitution of a panel to adjudicate the suspension of action request within the applicable time limits.

9. On 15 January 2025, the Chair of the JAB informed the Applicants that he was no longer the Chair of the JAB.

10. On 20 January 2025, Mr. Hall wrote to the Secretary-General, pursuant to Staff Regulation 11.2 (a), to request an administrative review of the administrative decision to install another individual to the position of Partnership Coordinator that Mr. Hall had encumbered and to formally seek the reversal of such appointment.

11. On 23 January 2025, the Secretary-General of ISA issued Information Circular ISBA/ST/IC/2025/3 in which it named a new Chair of the JAB.

12. On 27 January 2025, the Applicants filed individual Motions before the Appeals Tribunal asking that the Appeals Tribunal order “interim measures”.

13. On 6 February 2025, the Secretary of the JAB notified the Secretary-General that the JAB had constituted a panel to consider the requests for suspension of action filed by the Applicants.

14. On 7 February 2025, the Secretary-General of ISA filed her Responses to the respective Motions.

Parties’ Submissions

Motions for Interim Measures

Overlapping arguments

15. The Applicants contend that they are confronted with a blatantly unlawful attempt by the new ISA Secretary-General to interfere with their legally binding Letters of Appointment issued by the former Secretary-General. The unilateral “withdrawal” of their appointments represents a “textbook example of unlawful termination”, susceptible of causing immediate, significant, far-reaching and irreversible material and moral harm to the Applicants absent prompt review by the UNAT. The “withdrawal” of the appointments in the present cases is grossly in violation of the very fundamental principles of international administrative law and amounts to an overt abuse of authority. In addition, these cases present an unprecedented interference of the Applicants’ right to reassert their rights through the JAB as the neutral first instance body of administrative justice of ISA.

16. The Applicants contend that the failure by the JAB to resolve the applications for suspension of action pursuant to its Rules of Procedure amounts to an “abdication of duty” in light of Chapter XI of the ISA Staff Regulations, requiring a neutral first-instance process, and pursuant to the Special Agreement concluded between ISA and the United Nations (Special Agreement). It is especially concerning that the JAB appears to have become dysfunctional shortly after the Applicants filed their requests. Pursuant to Staff Regulation 11.2(c), the JAB upon receipt of similar requests, promptly constitutes a

panel which shall act expeditiously. Under the Rules of Procedure of the JAB, the Chair shall constitute a Panel to hear the requests for suspension of action within one week of the receipt of the requests. The JAB however, failed to constitute a panel by 14 January 2025 and submit its report to the Secretary-General, within three working days of the completion of its consideration.

17. In light of these unprecedented circumstances, turning to the Appeals Tribunal is the only available channel to restore due process, ensure access to justice and remedy the multiple infractions on the Applicants' rights and entitlements arising from valid employment contracts. The Applicants rely on Article 9(4) of the UNAT Statute in respect of interim measures and the UNAT jurisprudence including *Kasmani*¹ to assert the inherent right of the Appeals Tribunal to suspend action on an administrative decision as "an exception to the general principle of law of the right of appeal".

18. The Applicants point to Article 2 of the Appeals Tribunal Statute, which read in conjunction with the Special Agreement, provides for the Appeals Tribunal's competence to evaluate whether the JAB failed to exercise the jurisdiction vested in it. This appears to be the case here, due to the prolonged silence from the JAB and its Secretariat, nearing three weeks as of the time of the Applicants' submissions. The dismissal of the Motions by the Appeals Tribunal would also be contrary to Article 9 of the UNAT Statute, by which the Appeals Tribunal should order interim measures to provide temporary relief to the Applicants to prevent irreparable harm from the tacit decision of the JAB not to exercise its jurisdiction by abdication of duty.

19. In any event, should the Appeals Tribunal consider that the JAB is not defunct, it should at least recognize that such possible sudden and unexplained change in the composition of the JAB by the Secretary-General, while urgent cases are pending before it, does not provide any guarantee or reassurance that the JAB remains a neutral first instance body, as the ISA Staff Regulations and Rules require to safeguard the rights of the staff. Therefore, the UNAT is the only such neutral forum where the Applicants can seek appropriate interim measures.

20. The Applicants ask that the Appeals Tribunal order that the Secretary-General refrain from purporting to reclassify or restructure, and refrain from conducting

¹ *Kasmani v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-011.

recruitment for the posts to which they were appointed in December 2024; refrain from taking any steps to “withdraw” their appointments and/or implement the purported withdrawal of the appointments; resume the Applicants’ onboarding process; and promptly restore their access to their official ISA e-mail accounts.

Mr. Hall’s Motion for Interim Measures

21. In addition, Mr. Hall asserts that an adverse ruling by the Appeals Tribunal would result in irreparable harm as already a recent alleged recruitment of another individual to the position he encumbered has taken place, to which his further request for administrative review has remained unacknowledged. The alleged decision to proceed with recruitment for his encumbered position, despite the pending requests for administrative review by the Secretary-General and suspension of action by the JAB, demonstrates bad faith and a lack of regard for due process. The recruitment efforts represent an attempt to solidify the outcome desired by the Secretary-General, effectively circumventing the established legal framework and preempting the fair consideration of Mr. Hall’s claims.

Ms. Hackman’s Motion for Interim Measures

22. Ms. Hackman contends that an adverse ruling by the Appeals Tribunal would result in irreparable harm as already her post which is the only D-2 post in the staff with approved budget for the financial period 2025-2026 has been reclassified to D-1 and in its place, the post of Chef de Cabinet (D-2) established and advertised on the website of the ISA with a deadline of 6 February 2025.

23. Ms. Hackman further argues that no exceptional circumstances requiring the reclassification of the established post of Legal Counsel from D-2 to D-1 have been established, especially when a request for administrative review of the decision to withdraw Ms. Hackman from the post is pending. The ongoing recruitment demonstrates an attempt to solidify the outcome desired by the Secretary-General to separate Ms. Hackman from the Secretariat and circumvents the established legal framework, preempting the fair consideration of her claim.

Mr. Ardito's Motion for Interim Measures

24. Mr. Ardito asserts that by not hearing his request, the JAB – and the Secretary-General with her decision to alter the structure of the JAB while the request is pending – are factually preventing Mr. Ardito to have access to justice and creating a favorable avenue for the Secretary-General to act outside the rule of law. In the unprecedented circumstances, in which the JAB appears defunct (or, even worse, manipulated to serve the interests of the Secretary-General) and Mr. Ardito's right to access to justice seriously jeopardized, Mr. Ardito is compelled to request the Appeals Tribunal to order the necessary interim measures.

25. Mr. Ardito submits that interim measures are aimed at preserving the subject matter of a dispute by maintaining the status quo until a tribunal reaches a judgment on the merits, with a view to preserving the parties' rights pending a court decision. It is an inherent power of the Appeals Tribunal to award interim measures that are deemed appropriate, including beyond the literal interpretation of the conditions established under its Statute, when this is warranted by the circumstances, to safeguard the due administration of justice in administrative matters. Mr. Ardito contends that such conditions are present here. To find otherwise, with the JAB paralyzed and (rendered) unable to act, would result in Mr. Ardito being deprived of any means to vindicate his rights.

Secretary-General's Responses to the Motions²

26. The Secretary-General submits that the Motions seek to invoke the jurisdiction of the Appeals Tribunal in the absence of a prior decision by a neutral first-instance adjudicatory body. ISA's internal justice system, governed by its Staff Regulations and Rules is two-tiered, the first instance body being the JAB whose members are appointed by the Secretary-General, and the second-tier review being conducted by the Appeals Tribunal by virtue of jurisdiction conferred on the Appeals Tribunal through the Special Agreement signed between the United Nations and ISA.

27. The Secretary-General contends that the lack of a first-instance decision by the JAB renders the Motions inadmissible. Article 2(5) of the Special Agreement establishes

² The Secretary-General's individual responses to each Motion are nearly verbatim.

that UNAT's jurisdiction is contingent upon a prior ruling at the first instance by the JAB, and Article 2(6) reiterates that an application shall not be receivable unless the person concerned has previously submitted the dispute to the neutral first instance process provided for in the ISA Staff Regulations.

28. The Secretary-General claims that the Motions are procedurally defective, as they contravene well-established precedent of the Appeals Tribunal relating to its jurisdiction. In support of her contention, the Secretary-General points to the Appeals Tribunal Judgment in *Webster* where the Appeals Tribunal held that as a second-level tribunal, the Appeals Tribunal cannot conduct its review without a decision from a neutral first instance process and body.³

29. The Secretary-General contends that importantly, the issue whether the Applicants have *locus standi*, is currently in dispute and appropriately before the JAB for consideration at first instance. The JAB is seized of a similar application for suspension of action filed by the Applicants and one other individual. The Secretary of the JAB has requested a response by 7 February 2025 and has notified that a panel has been constituted for this case.

30. The Secretary-General submits that on 1 January 2025, the new Secretary-General of ISA assumed her role. She was immediately briefed by the Staff Association of concerns related to internal justice and inconsistencies in the Staff Regulations and Rules that were not in accordance with the decision of the Appeals Tribunal and concerns around access to justice. It was as a result of the review, and with a view to implementing the relevant recommendations of the Appeals Tribunal as contained in its Judgment No. 2023-UNAT-1369⁴ that the Secretary-General issued, on 23 January 2025, an amendment to the Staff Rules and an Information Circular on the membership of the JAB.

31. The Secretary-General claims that the Applicants' assertion that the JAB has failed to exercise its jurisdiction is misplaced. ISA Staff Rule 11.2(ii) does not impose a fixed deadline on the JAB but instead recommends that the JAB be "promptly constituted and shall act expeditiously". Rule 14 of the Rules of Procedure and Guidelines states that the Panel "shall normally be constituted" within one week of the request. These time limits

³ *Webster v. Secretary-General of the International Seabed Authority* Judgment No. 2020-UNAT-983.

⁴ *Webster v. Secretary-General of the International Seabed Authority*, Judgment No. 2023-UNAT-1369.

do not establish peremptory fixed deadlines but rather establish guidance to the JAB, a time frame within which the JAB should proceed, which the JAB has done. As of 6 February 2025, the Secretary of the JAB notified the Secretary-General that it had constituted a panel to consider the requests for suspension of action filed by the Applicants.

32. Finally, the Secretary-General notes that the interim measures are put in place under the UNAT process to serve as a stopgap where a decision by the first instance process (e.g. the JAB) has been made and the appellant or respondent wishes to maintain the status quo or prevent irreparable harm and maintain consistency. In the absence of a first instance decision, no interim measure may be ordered.

33. The Secretary-General requests that the Appeals Tribunal dismiss the Motions as not receivable on grounds of lack of jurisdiction and as an abuse of the appellate process established by the Appeals Tribunal in the absence of a first instance decision.

Considerations

34. The Appeals Tribunal's jurisdiction is clearly circumscribed by Article 2 of the Appeals Tribunal Statute read together with Article 2 of the Special Agreement between the United Nations and ISA. The Appeals Tribunal has jurisdiction and competence to determine whether the decision of the neutral first instance body, the JAB, exceeded its jurisdiction or competence; failed to exercise jurisdiction vested in it; erred on a question of law; committed an error in procedure, such as to affect the decision of the case; or erred on a question of fact, resulting in a manifestly unreasonable decision.

35. The Appeals Tribunal has further competence and jurisdiction, pursuant to Article 9(4) of the Statute, to order, “[a]t any time during the proceeding ... an interim measure to provide temporary relief to either party to prevent irreparable harm and to maintain consistency with the judgement of the Dispute Tribunal”.⁵

36. It is well-established in the Appeals Tribunal's jurisprudence that in order to grant interim relief, the Tribunal must be satisfied that (1) there is a real likelihood of irreparable

⁵ The ISA Secretary-General did not raise as an objection that motions for interim relief are not permitted under the Special Agreement, and accordingly I do not reach that question here. *Cf. Rockcliffe v. United Nations Joint Staff Pension Board*, Order No. 288 (2017).

harm which can be prevented if temporary relief is granted, and (2) the temporary relief granted would be consistent with the judgment of the Dispute Tribunal.⁶ In these three cases, there are no judgments or decisions from the JAB against which the Appeals Tribunal could evaluate the requested relief.

37. I do not find it necessary to address the argument that the Appeals Tribunal has, even in the absence of a first-instance decision, an inherent power to order interim relief in the most compelling of circumstances. Since the Applicants' submissions, the JAB was reconstituted and a panel to consider the requests for suspension of action filed by the Applicants was appointed. The Applicants' Motions have thus become moot.

38. However, I note with concern that the JAB was dismantled temporarily without prior warning given to ISA staff members and with no reasons provided by the Administration. It is also alarming that the Administration dismantled the JAB with no successor in place, denying the staff members access to justice in the interim. While ISA submits that a new JAB has now been constituted, the temporary void rendered meaningless the JAB suspension of action mechanism which the Applicants had attempted to pursue before coming to the Appeals Tribunal.

39. Although the Appeals Tribunal dismisses the present cases as moot, this ruling is without prejudice to the Applicants' rights to have their cases considered on appeal once decisions by the newly established JAB have been issued.

⁶ *Qasem Abdelilah Mohammed Qasem v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Order No. 519 (2023), paras. 8-9; *Koumoin v. Secretary-General of the United Nations*, Order No. 3 (2010), para. 9.

IT IS HEREBY ORDERED that the Motions are **DENIED, without prejudice.**

Original and Authoritative Version: English

Dated this 19th day of February 2025
in Beirut, Lebanon.

(Signed)
Judge Nassib G. Ziadé,
President

Entered in the Register on this 19th day of
February 2025 in New York, United States.

(Signed)
Juliet E. Johnson,
Registrar