



INTERNATIONAL SEABED AUTHORITY

JOINT APPEALS BOARD

ISBA/JAB/SOA/ARDITO/2025

Giovanni Ardito
(the "Appellant")

v.

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

Decision of the Panel relating to an application for suspension of action by the Appellant

Introduction

1. The present matter concerns the request by the Appellant for the suspension of the recruitment process for the position of Policy and Strategic Initiatives Officer (P3), which he claims has been unlawfully initiated by the Respondent of the International Seabed Authority (ISA).

Background and Procedural History

2. On 18 December 2024, the Appellant was issued a Letter of Appointment (LoA) for a fixed-term position as Policy and Planning Officer (P3), effective 1 January 2025.

3. On 3 January 2025, the Respondent informed the Appellant that his LoA was being "withdrawn" due to concerns related to "fiscal responsibility and efficiency" and procedural irregularities in the selection process.

4. The Appellant filed a request for administrative review on 6 January 2025, which was rejected on 5 February 2025.



5. On 4 March 2025, the Appellant filed an appeal before the JAB, seeking reinstatement to his original position. This substantive procedure is still on going.
6. On 10 March 2025, the ISA published a job posting for the position of Policy and Strategic Initiatives Officer (P3).
7. On 19 March 2025, the Appellant submitted the present request for suspension of action, arguing that the new role has similar functions to the previous position and that the recruitment for the new position would irreparably harm his rights by rendering his substantive appeal of reinstatement moot.
8. On 20 March 2025, the JAB Secretariat acknowledged receipt of the request. On the same day, the Secretary of the JAB transmitted a letter to the Respondent, requesting a reply by 28 March 2025.
9. On 27 March 2025, the Chair of the JAB constituted a Panel to consider the request for suspension of action, following consent from the respective Panel members. The Secretary of the JAB issued a letter of constitution to both parties on the same date.
10. On 28 March 2025, the Respondent submitted a reply opposing the suspension request, arguing that the new position is distinct from the previous role, the recruitment process was lawful, and the Appellant still has the opportunity to apply for the role. The Respondent also denies acting in bad faith or attempting to preempt the appeal process.
11. On 2 April 2025, the Appellant submitted a letter requesting the disqualification of two Panel Members, including the Chair of the Board, who also serve as Chair of the Panel constituted. In accordance with Rule 26 of the Rules of Procedure of the Joint Appeals Board, Ambassador Gina Guillén Grillo was selected on 4 April 2025 to decide on the matter and was duly informed by the JAB Secretariat on the same day. Subsequently, Ambassador Guillén Grillo issued an Order on 9 April 2025 in response to the Appellant's request for disqualification of the Panel, dismissing the request and confirming that the Panel could proceed as constituted.
12. On 7 April 2025, the Appellant submitted his comments on the Respondent's reply of 28 March 2025. As the Appellant included additional annexes, the Chair, on the same day, invited the Respondent to submit further comments in response by 15 April 2025.
13. On 9 April 2025, the Appellant requested interlocutory relief in the form of an immediate suspension of the ongoing recruitment process, in response to the Respondent being invited to comment on his 7 April 2025 submission. In this regard, the Panel issued an Order on 10 April 2025 deferring the request, without prejudice to future consideration.
14. Also, by a letter dated 10 April 2025, the Appellant challenged the assignment of the disqualification request to Ambassador Guillén Grillo, citing prior objections.



15. Following that, on 11 April 2025, the Appellant submitted further communication regarding the Order of 10 April 2025 and raised concerns about the lack of transparency in the alleged “lot” selecting Ambassador Guillen Grillo.

16. On 15 April 2025, the Respondent submitted her additional comments on the Appellant’s submission of 7 April 2025.

Summary of the SoA Application

17. On 19 March 2025, the Appellant filed an application before the Joint Appeals Board requesting the suspension of the recruitment process launched by the Respondent of the International Seabed Authority (ISA) on 10 March 2025 for the post of Policy and Strategic Initiatives Officer (P3) (Job Opening No. TJO 254916, based in Kingston, Jamaica).

18. The Appellant contends that the new vacancy represents a functional continuation of the position for which he was previously selected—Policy and Planning Officer (P3) (Job Opening No. JO 240665, under the Executive Office of the Respondent)—but from which he was unilaterally removed following the withdrawal of his appointment on 3 January 2025.

19. He asserts that the recruitment of the reclassified post, which shares core responsibilities with the cancelled position (including strategic planning, policy development, and institutional coordination), constitutes an administrative decision that is unlawful and motivated by bad faith, intended to circumvent the pending appeal and frustrate a potential reinstatement.

20. The Appellant highlights that his appointment, made effective by a letter dated 18 December 2024 with a start date of 1 January 2025, was withdrawn without clear legal justification and absent any due process.

21. In his submission, the Appellant argues that the recruitment process for the newly advertised post—launched just six days after his request for administrative review was rejected (5 February 2025), and four days after his appeal was filed (4 March 2025)—is tantamount to a continuation of the contested administrative conduct and must be temporarily suspended.

22. The Appellant also asserts that the new position was not approved in the ISA’s staffing table and that reclassification requires Assembly approval, which did not occur. He also avers that the JAB had found the old position nonexistent, yet this decision of advertisement suggests otherwise.

23. The Appellant further argues that, should recruitment proceed and the position be filled, the outcome of his appeal would be rendered moot, depriving him of an effective remedy, including potential reinstatement, and thus exposing him to irreparable harm.



24. He therefore invokes Staff Rule 11.2(c), seeking that the JAB to: i) Suspend the recruitment process immediately until his appeal is decided; ii) halt any hiring actions for the Policy and Strategic Initiatives Officer role. He argues that: a) the measure is not yet implemented (i.e., recruitment is still ongoing); b) its implementation would result in irreparable injury; and c) there is a *prima facie* case of unlawfulness in the contested action.

Summary of the Reply of the Respondent

25. On 28 March 2025, the Respondent submitted a formal reply opposing the request for suspension.

26. The Respondent argues that the position of Policy and Strategic Initiatives Officer is a distinct post, created as part of a legitimate organizational restructuring process designed to better align the ISA's operations with evolving institutional priorities and the ISA Strategic Plan (2019–2023).

27. In his response, the Respondent outlines that the duties and responsibilities of the new post differ significantly from those of the withdrawn Policy and Planning Officer role. Key distinctions cited include a) a broadened focus on strategic foresight and performance monitoring; b) enhanced responsibilities for inter-divisional coordination; and c) new emphasis on external partnerships and stakeholder engagement.

28. The Respondent stresses that the recruitment was launched pursuant to the organization's managerial discretion, within the approved organizational structure and with budgetary and procedural compliance, in full accordance with ISA's staff rules and regulations, and that there is no evidence of bad faith or procedural irregularity.

29. The Respondent denies any procedural violations or attempts to circumvent the Assembly's authority and maintains that the decision to recruit was based on organizational needs, not personal circumstances.

30. The Respondent argues that the position of Policy and Planning Officer (P3) no longer exists due to restructuring efforts undertaken to align with the ISA's strategic objectives. She further affirms that the Appellant has no vested right to reinstatement in a role that has been eliminated.

31. According to the Respondent, no irreparable harm arises from the recruitment proceeding, since the Appellant is free to apply for the new post and compete on equal terms.

32. The Respondent concludes that the Appellant has failed to meet the burden of demonstrating either irreparable injury or a *prima facie* case of unlawfulness, and therefore requests that the application for suspension be dismissed in its entirety.



33. The Respondent urges the Joint Appeals Board to reject the suspension request, allowing the recruitment process to continue.

Considerations of the JAB

Preliminary matter: the Appellant's latest submissions

34. The Panel notes that, in addition to the request for suspension of action, the Appellant submitted four separate letters addressing various matters. As mentioned earlier, through a letter dated 2 April 2025, the Appellant requested the disqualification of two Panel Members, including the Chair. Subsequently, on 9 April 2025, Ambassador Gina Guillén Grillo, who had been designated to decide on the disqualification request of the Appellant, issued an Order rejecting the request and confirming that the Panel could proceed as constituted. Accordingly, the Panel is now considering the Appellant's request for suspension of action.

35. By letter dated 9 April 2025, the Appellant raised concerns regarding the invitation extended to the Respondent to comment on the Appellant's submission of 7 April 2025 and concurrently sought interlocutory relief in the form of an immediate suspension of the ongoing recruitment process. In response, an Order was issued by the Panel on 10 April 2025, clarifying that no decision had yet been taken on the request for suspension of action and that the invitation to the Respondent was made to uphold the principle of procedural fairness. The request for interlocutory relief was deferred to this judgment, without prejudice to any future determination.

36. On 10 April 2025, the Appellant submitted a further letter concerning the Order of 9 April 2025, contending that the disqualification request had been improperly assigned to Ambassador Gina Guillén Grillo, one of the Board Members he had already been challenged on the grounds of alleged serious conflicts of interest.

37. Following that, on 11 April 2025, the Appellant submitted another letter regarding the Order of 10 April 2025 and raised concerns about the lack of transparency in the alleged chosen by a "lot" selecting Ambassador Guillen-Grillo, having not been informed until the decision was issued. The Appellant requested full disclosure of related records and rejected the Secretary's response, stressing that due process requires a neutral and transparent panel.

38. The Panel notes that the selection of Ambassador Guillén Grillo was conducted by random lottery during an online meeting attended by the Chair, Panel Members, and the Secretary of the JAB, thereby ensuring transparency and impartiality in the process, in keeping with Rule 26 of the Rules of Procedure of the JAB.



Preliminary matter: prior application of Suspension of Action

39. The Panel notes that a previous request for suspension of action was submitted by the Appellant on 7 January 2025, which was considered and dismissed by the Panel. That earlier application challenged the withdrawal of his Letter of Appointment to the post of Policy and Planning Officer (P3) and did not address any recruitment process.

40. The recruitment process now being contested—the announcement and selection for the Policy and Strategic Initiatives Officer (P3) post—was only initiated on 10 March 2025, subsequent to the earlier request. As such, it constitutes a new and separate administrative action.

Assessment of the Request for Suspension of Action

41. The Appellant argues that this recruitment process is a direct attempt to preempt his pending appeal before the Joint Appeals Board (JAB) regarding the withdrawal of his original appointment to the Policy and Planning Officer (P3) position. The Appellant seeks an interim suspension of the recruitment process pending resolution of his appeal.

42. The Respondent opposes the request, asserting that the new position is distinct, the restructuring was conducted in compliance with ISA policies, and the Appellant has no vested right to reinstatement.

43. The Panel must determine whether the contested decision should be suspended pursuant to Staff Rule 11.2(c) and whether the implementation of the recruitment process would cause irreparable harm to the Appellant. Specifically, the Panel will assess a) whether the contested decision (recruitment process) has been implemented; b) whether implementation would result in irreparable injury to the Appellant; and c) whether there is a *prima facie* case of unlawfulness.

44. With regard to the first requirement—implementation of the contested decision—the Panel notes that the recruitment process for the policy and strategic initiatives officer (P-3) remains ongoing. The deadline for applications was 23 March 2025, and at the time of consideration, no appointment had been publicly announced. Accordingly, the Panel finds that the administrative decision in question has not yet been implemented, thereby satisfying the first element under staff rule 11.2(c).

45. Concerning the requirement of irreparable injury, the Appellant argues that permitting the recruitment process to proceed would effectively preclude his reinstatement and render his pending appeal moot. While the Panel acknowledges this concern, it also observes that the Appellant was not precluded from applying for the newly advertised position. In the absence of any indication that he was ineligible or otherwise barred from competing in the process, and given that no selection has yet been made, the Panel finds no sufficient evidence that irreparable harm would result from allowing the recruitment to move forward. Moreover, in the event that the contested decision of retraction of the appointment is



found unlawful, it can be rescinded, and compensation can be awarded. Therefore, the contested decision is reversible and therefore does not lead to irreparable harm.

46. As to the third requirement—a *prima facie* case of unlawfulness—the Appellant maintains that the policy and strategic initiatives officer role is essentially a rebranded version of his original post and was created in order to circumvent the outcome of his appeal. He asserts that the restructuring was used as a pretext to nullify his prior appointment. While the Panel has considered these allegations, it also takes into account the jurisprudence in this matter and the documentation provided by the Respondent, including the updated job description and the stated rationale for the reclassification.

47. The Respondent argues that the request for suspension of the recruitment process should be denied, asserting that the recruitment of the Policy and Strategic Initiatives Officer (P3) is a separate and independent process. The new position (Policy and Strategic Initiatives Officer) was designed to reflect different functions and responsibilities and is not a mere renaming of the previous role. The Respondent concludes that the new role includes expanded functions distinct from the original position and that the recruitment process is fully compliant with ISA’s staffing policies.

48. The Panel notes that, ordinarily, the restructuring of positions falls within the discretionary authority of the Administration, provided it is done in good faith and with legitimate organizational reasons.

49. The jurisprudence of the United Nations Appeals Tribunal (UNAT) consistently affirms that recruitment decisions fall within the broad discretion of the Administration and should only be subject to judicial interference where there is compelling evidence of procedural irregularity, arbitrariness, or bias. In 2019-UNAT-932, the Appeals Tribunal emphasized that selection Panels are entitled to a margin of discretion, and that tribunals should refrain from substituting their judgment in the absence of substantiated irregularities or discrimination.

50. Similarly, in 2018-UNAT-836, the Appeals Tribunal upheld the principle that organizations retain the authority to cancel or restructure positions, provided such actions are supported by reasonable justification. In the context of an application for suspension of action, it is for the applicant to establish the *prima facie* unlawfulness of the contested measure.

51. The suspension of action mechanism is both exceptional and preliminary in nature, and it is not designed to pre-empt a full determination on the merits. In the current case, the Appellant has not demonstrated such patent unlawfulness, nor has he displaced the presumption of regularity applicable to administrative restructuring.

52. Given the circumstances of the case and the limited scope of the Suspension of Action proceedings, the Appellant has not demonstrated that the creation of the new post was undertaken in bad faith or with the intent to circumvent the outcome of his appeal. Therefore, the *prima facie* evidence before the Panel does not establish violation of procedural or substantive rights warranting immediate intervention.



53. The Panel concludes that the Appellant has not met the requirements for the suspension of action under Staff Rule 11.2(c). Only when all three requirements of Staff Rule 11.2(c) are met can the decision be suspended. In the present case, at least two of these requirements are not met. In particular, the Appellant's request for suspension does not adequately establish that the implementation of the contested decision would result in direct and irreparable harm to the Appellant's rights, nor does it establish an apparent case of unlawfulness.

Conclusion

54. Accordingly, the request for suspension of action is dismissed.

55. This decision does not preclude the Appellant from pursuing his appeal on the merits before the JAB.

Dated: 17 April 2025

Judge Martha Halfeld Furtado de Mendonça Schmidt
Panel Chair

Professor Jiefang Huang
Member of the Panel

Judge Courtney Maxwell
Member of the Panel