



INTERNATIONAL SEABED AUTHORITY

JOINT APPEALS BOARD

ISBA/JAB/APPEAL/BOURREL-MCKINNON/GRIEVANCE 7/2025

Marie Bourrel-McKinnon (the "Appellant")

v.

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

Judgment of the Board relating to Grievance 7 submitted by the Appellant *Entitlements Arising from Separation from Service*

Introduction

1. The Appellant was employed by the International Seabed Authority (ISA/Authority) since 2017. At the time of the termination of her contract, she held the position of Chief of Staff and Head of the Strategic Planning Unit at the D-1 level, under a Fixed-Term Appointment (FTA) valid until 31 December 2028.
2. On 20 March 2025, the Appellant filed Grievance 7 before the Joint Appeals Board (JAB/Board) of the ISA, pursuant to Staff Rule 11.2(a)(i) of the ISA Staff Rules 11 and 17 of the Revised JAB Rules of Procedure (RoP). The appeal challenges the decision of the Respondent, which the Appellant submits was made between 7th January 2025 and 27th January 2025, refusing to pay entitlements that the Appellant claims she is legally entitled to under the Staff Regulations and Rules.
3. The Appellant contends that the impugned decision is unlawful and constitutes abuse of authority. She requests annulment of the contested decision with immediate and retroactive effect as well as compensation for moral damages.



Procedural Background

4. On 6 January 2025, the Respondent promulgated ISBA/ST/AI/2023/3/Amend.2, which amended the procedures for classification and reclassification of posts.
5. On 7 January 2025, the Officer-in-Charge (OiC) of the Office of Administrative Services (OAS) notified the Appellant that her appointment had been terminated by the Respondent. The OiC further indicated that the position previously held by the Appellant had been reclassified and restructured into a different role within the Secretariat, effective 6 January 2025.
6. On the same day, the Appellant submitted a request to the Secretary-General seeking review of the termination decision.
7. By memorandum dated 13 January 2025, the Human Resources Officer (HRO) of ISA forwarded a separation memorandum dated 7 January 2025 and provided the Appellant with information regarding the staff separation process, including procedures to facilitate the payment of her entitlements.
8. On 15 January 2025, the Appellant instructed her Counsel to respond to the HRO on her behalf.
9. On 29 January 2025, the Appellant requested administrative review of the Respondent's refusal to pay her entitlements.
10. By email dated 30 January 2025, a Senior Finance Officer provided the Appellant with her payslip for January 2025.
11. On 12 February 2025, the Appellant received a notice of remittance in the amount of USD14,281.85.
12. On 27 February 2025, the Administration dismissed the Appellant's request for administrative review dated 29 January 2025, noting that no administrative decision existed denying her due entitlements.

Procedural History

13. On 20 March 2025, Counsel for the Appellant submitted an appeal on behalf of the Appellant, registered as Grievance 7. The JAB Secretariat requested confirmation from Counsel regarding the completeness of the grievance, including annexes and supporting documentation. This confirmation was received on the same date.



14. On 20 March 2025, the Chair of the JAB invited the parties to engage in conciliation in accordance with Rule 9 of the Revised JAB RoP.
15. The Respondent declined the offer of conciliation for the appeal. Consequently, the JAB Secretariat formally notified the Respondent of Grievance 7 and invited her to submit a reply. The deadline was set to 23 April 2025 for response.
15. On 28 March 2025, the JAB Secretariat notified the Appellant that her appeal would be heard by the full Board, as it is substantively similar in context and compensation sought to other pending appeals. To ensure consistency and avoid conflicting outcomes, the Chair, pursuant to Rule 28 of the Revised JAB RoP and established international tribunal practices, decided to review them together.
16. On 3 April 2025, the Appellant submitted a request under Rule 26 of the Revised JAB RoP seeking the disqualification of four JAB members, including the Chair, citing actual or apparent conflicts of interest and concerns regarding the composition and reconstitution of the full Board.
17. On 16 April 2025, the Respondent submitted her reply to the appeal.
18. On 17 April 2025, the JAB Secretariat transmitted the Respondent's reply to the Appellant and invited her to submit comments no later than 19 May 2025.
19. On 19 May 2025, the Appellant submitted her comments on the Respondent's reply.
20. On the same date, the Chair of the JAB invited the Respondent to submit additional comments in response to the Appellant's submission. The deadline was set for 17 June 2025. The JAB Secretariat received the Respondent's additional comments on that date.
21. On 9 July 2025, upon instructions from the Chair, the JAB Secretariat requested the Respondent to confirm, with supporting documentation, whether all payments and entitlements due to the Appellant in connection with her termination had been processed.
22. On 16 July 2025, the Respondent confirmed that the Appellant's separation entitlements would be processed in due course. This submission was transmitted to the Appellant with an invitation to comment by 24 July 2025. On that date, the Appellant submitted her comments, asserting that several entitlements including annual leave, repatriation travel and grant, relocation shipment, pension accruals, and termination indemnity remained unpaid, miscalculated, or unverified.



23. On the same date, these comments were forwarded to the Respondent, who submitted additional observations on 31 July 2025, maintaining that all entitlements would be processed upon the Appellant's completion of the clearance procedures.
24. The Appellant filed her reply on 15 August 2025, confirming acceptance of most entitlements and seeking clarification regarding the JAB's authority to award damages.
25. In light of the incomplete factual record concerning the Appellant's compliance with clearance procedures, the Chair issued Order No. 16 on 4 September 2025, directing the Appellant to submit a detailed, chronological account of her actions in relation to the clearance process, including any supporting documentation, and allowing the Respondent 15 working days to comment thereafter.
26. The full text of Order No. 16 is as follows:

Order No. 16 (2025)

Order on Compliance with Staff Separation and Clearance Procedures

Procedural background

1. The present Order concerns Grievance 7, submitted by the Appellant before the Joint Appeals Board (JAB/Board) of the International Seabed Authority (ISA/Authority). The Appellant, who held the position of Chief of Staff and Head of the Strategic Planning Unit at the D-1 level under a Fixed-Term Appointment valid until 31 December 2028, having been separated from service, contests the Respondent's decision of January 2025 declining payment of certain entitlements allegedly due to her under the Staff Regulations and Rules.
2. On 13 January 2025, the Human Resources Officer of the ISA transmitted to the Appellant a separation *memorandum* dated 7 January 2025 outlining the procedures applicable to staff separation, including requirements to facilitate payment of final entitlements.
3. On 15 January 2025, the Appellant instructed her Counsel to respond to the Human Resources Officer on her behalf.
4. On 29 January 2025, the Appellant requested administrative review of the Respondent's refusal to pay her entitlements.
5. By email of 30 January 2025, an ISA Senior Finance Officer transmitted to the Appellant her payslip for January 2025.



6. On 12 February 2025, the Appellant received a notice of remittance in the amount of USD 14,281.85.

7. On 27 February 2025, the Administration dismissed the Appellant's request for administrative review, noting that no administrative decision had been taken denying her due entitlements.

8. On 9 July 2025, pursuant to the Chair's request, the Respondent was invited to confirm whether all payments and entitlements due to the Appellant upon her separation had been processed.

9. On 16 July 2025, the Respondent replied, confirming that the Appellant's separation entitlements would be processed in due course, but reiterating the position that the appeal was not receivable under Staff Rule 11.2, as no specific administrative decision had been identified. The submission was transmitted to the Appellant with an invitation to provide comments by 24 July 2025.

10. On 24 July 2025, the Appellant filed her comments, asserting that the Respondent had failed to comply with the JAB's directive. She maintained that several entitlements including annual leave, repatriation travel and grant, relocation shipment, pension accruals, and termination indemnity remained unpaid, miscalculated, or unverified. These comments were transmitted to the Respondent for further observations.

11. On 31 July 2025, the Respondent submitted additional comments, stating that all entitlements would be processed together with other separation-related payments, subject to the Appellant's compliance with the separation memorandum.

12. On 15 August 2025, the Appellant filed her final reply, confirming acceptance of most of the entitlements as notified. She further sought confirmation that the JAB possessed the authority to award damages.

Analysis

13. The Respondent maintained that the Appellant did not complete clearance procedures required under ISA Staff separation law/practice as a prerequisite to the release of final entitlements, in particular the return of office property, and that this has prevented the processing of final payments.

14. In her submissions, the Appellant has framed any delay or omission as being attributable to the Administration's alleged failure to provide the necessary forms, guidance, and assistance to facilitate the separation process. While she has advanced this contention, she has not specified what steps she herself undertook to seek or obtain clearance, nor has she presented supporting documentation to demonstrate partial or full compliance with the established requirements.



15. The JAB cannot determine responsibility for the delay in processing final entitlements without a clear record of (a) the steps taken by the Appellant to comply with clearance obligations, (b) the dates on which such steps were undertaken, and (c) the corresponding response, or lack thereof, by the Administration. Only with such information can the JAB properly assess whether the alleged non-compliance is attributable to the Appellant, to deficiencies in the Administration's guidance and support, or to a combination of both.

16. Accordingly, in order to reach a fair and reasoned determination on Grievance 7, the JAB must first obtain from the Appellant a detailed, chronological account of her actions in relation to the clearance process, together with any documentation that would substantiate her assertions.

Order

17. **IT IS HEREBY ORDERED** that the Appellant shall, no later than 25 September 2025, submit to the Board a detailed account of the steps undertaken in connection with the clearance process, including:

(a) copies of forms, correspondence, or other documentation exchanged; and (b) any evidence of attempts to return any specific office property or otherwise comply with separation requirements.

18. The Respondent shall have 15 working days from the receipt of the Appellant's submission to file comments thereon.

19. Further consideration of the appeal is deferred pending receipt of the parties' submissions.

Order dated this 4th day of September 2025

27. The Appellant submitted comments on 24 September 2025 in response to Order No. 16. The Appellant did not provide the factual chronology or documentation requested by Order No. 16. Instead, she raised procedural objections, including concerns regarding impartiality linked to her pending disqualification request of 3 April 2025, challenged the accuracy of the procedural background recorded in the Order, and reiterated her position that the Administration unlawfully withheld her entitlements. She argued that Order No. 16 improperly reflects the Respondent's framing of the case and should not require her to demonstrate compliance with clearance procedures.



28. The Respondent filed her response on 7 October 2025. In her comments, the Respondent reiterated that any delay in processing the Appellant’s separation entitlements stems from the Appellant’s failure to complete the required clearance procedures, including the return of office property, submission of pension documentation, and the election of travel and shipment options. The Respondent further rejected the Appellant’s procedural objections and maintained that all entitlements would be processed upon the Appellant’s compliance with the requirements set out in the separation memorandum.

29. On 14 October 2025, the Chair issued Order No. 20, directing the Respondent to provide the Appellant with a comprehensive package containing all necessary forms, instructions, and a detailed clearance checklist including options for remote completion or compensation in lieu of returning Authority property and to designate a contact for assistance. The Appellant was required to complete the forms and provide evidence of compliance, after which the Administration was to disburse all undisputed entitlements within five working days. Consideration of her claims of unlawful withholding, damages, and interest was deferred pending completion of these steps.

30. The full text of Order No. 20 is as follows:

Order No. 20 (2025)

Order on Facilitation of Payment of Undisputed Separation Entitlements

Procedural background

1. This case before the International Seabed Authority (ISA/Authority) Joint Appeals Board (JAB/Board), specifically Grievance 7 (ISBA/JAB/APPEAL/BOURREL-MCKINNON/GRIEVANCE 7/2025), concerns Marie Bourrel-McKinnon's (the “Appellant”) contested refusal/delay by the Secretary-General of the ISA (the “Respondent”) to pay her final separation entitlements.

2. The key issue revolves around whether the non-payment of entitlements is due to the Respondent's unlawful withholding or the Appellant's failure to comply with mandatory staff separation and clearance procedures.

3. The chronology outlines the Appellant's separation and the subsequent procedural steps and arguments presented to the JAB. The relevant facts are, *inter alia*, the following: after the request for administrative review in January 2025, which constituted the basis for other Grievances, the ISA Human Resources Officer sent the



Appellant a separation *memorandum* outlining the applicable procedures for staff separation and requirements for final entitlements.

4. The Respondent maintains this *memorandum* outlined the need for the Appellant to choose between "mutually agreed termination" or "termination indemnity". It also stated, "No final payment will be made until the clearance form is duly completed by all ISA offices".

5. On January 24, 2025, the Appellant noted a transfer of USD 2,282.75 without notification, which the Respondent later called a "provisional payment... as a gesture of good faith".

6. On January 27, 2025, the Appellant's Counsel notified the Secretary-General that the refusal to pay statutory entitlements forced this new grievance (Grievance 7).

7. On January 28, 2025, the Appellant requested administrative review of the Respondent's refusal to pay her entitlements.

8. On February 27, 2025, the ISA Administration dismissed the Appellant's request for administrative review, noting no administrative decision had been taken denying her due entitlements.

9. On July 9, 2025, after the filing of the present Grievance 7 and its answer by the Respondent, the JAB Chair requested the Respondent to confirm whether all payments and entitlements due to the Appellant upon her separation had been processed.

10. On July 16, 2025, the Respondent replied, maintaining that entitlements would be processed in due course.

11. On July 24, 2025, the Appellant filed comments, asserting that the Respondent had failed to comply with the JAB's directive and maintaining that several entitlements remained unpaid, miscalculated, or unverified, including annual leave, repatriation travel and grant, relocation shipment, pension accruals, and termination indemnity. She also noted missing education grant and mother tongue allowance claims.

12. On July 31, 2025, the Respondent submitted additional comments, stating that all entitlements would be processed together with other separation-related payments, subject to the Appellant's compliance with the separation memorandum. The Respondent maintained that the Appellant had not completed clearance procedures (specifically return of office property) as a prerequisite to the release of final entitlements.

13. On August 15, 2025, the Appellant filed her final reply, confirming acceptance of most entitlements as notified.



14. On September 4, 2025, the Chair of the JAB issued Order No. 16 (2025), on Compliance with Staff Separation and Clearance Procedures. It was noted that the JAB could not determine responsibility for the delay without a clear record of the steps taken by the Appellant to comply with clearance and the Administration's corresponding response. The Chair then ordered the Appellant to submit, no later than September 25, 2025, a detailed, chronological account of her actions regarding the clearance process, including copies of forms, correspondence, and evidence of attempts to return office property or otherwise comply with separation requirements. Further consideration of the appeal was deferred pending the receipt of submissions.

15. On September 24, 2025, the Appellant submitted her response to Order No. 16, raising a preliminary objection regarding the impartiality of the JAB, noting an unresolved request for the disqualification of the JAB Chair filed on April 3, 2025. The Appellant also argued that Order No. 16 was an incomplete and misleading record and contended that the Order was a "decision in disguise" which materially affected her rights. The Appellant further argued that the Order unlawfully conditioned the adjudication of her appeal on evidence of compliance with clearance procedures, thus legitimizing the Administration's use of withholding entitlements as leverage. She cited UNAT/UNDT jurisprudence holding that indefinite withholding of entitlements linked to clearance is unlawful.

16. The Appellant also raised a counter claim on the clearance procedure, arguing that the delay/omission was attributable to the Administration's failure to provide the necessary forms, guidance, and assistance.

17. On October 7, 2025, the Respondent filed her Comments on the Appellant's Response. Her main argument was that the Administration maintained that any delay in disbursement arose solely from the Appellant's continued failure to meet her clear contractual and administrative obligations. Regarding the specific failures alleged, the Authority cited the Appellant's: 1) prolonged silence and failure to elect the termination option ("mutually agreed termination" or "termination indemnity"); 2) refusal to complete the mandatory clearance procedures (essential for the return of organizational property); 3) failure to complete required UNJSPF pension documentation (PENS E 7 and PENS A_2); 4) failure to elect preferred options for Travel on Separation and Relocation Shipment; 5) failure to submit claims and supporting documents for education grant and mother tongue allowance.

18. The Administration requested the JAB to find that the Appellant's failure is the sole cause of delay, that the Administration's position is lawful adherence to contractual preconditions. The Organization stated it "stands ready to process all pending



entitlements immediately upon the Appellant's completion of the required administrative steps".

Considerations

19. As a preliminary issue, the Board notes that the disqualification letter dated 3 April 2025 requested the recusal of four Board members, including the Chair. Given that the Appellant's appeals effectively sought the recusal of the entire current Board composition (the Chair and four other identified members), the Board previously determined in its five judgments already issued (Grievances 1, 3, 4, 5, and 6) that this matter would be more appropriately addressed in the final judgment for each appeal. Likewise, in the current Grievance 7, the assessment of the disqualification request will thus be considered concurrently with the general recusal of the current Board members and will be handled accordingly in the final judgment.

20. As previously noted, the JAB has received and considered the Appellant's submissions concerning Grievance 7, relating to the non-payment of separation entitlements, as well as the Respondent's comments on the matter.

21. The Chair of the JAB issued Order No. 16 (2025) on 4 September 2025, requesting the Appellant to provide a detailed, chronological account of her actions in relation to the clearance process.

22. The parties' most recent submissions following that Order confirm a continuing impasse regarding the fulfillment of administrative separation requirements.

23. The Chair notes the Respondent's position that it is "unable to release" final payments until the Appellant fulfills "contractual preconditions for disbursement" as specified in the separation memorandum, citing the Appellant's alleged failures to complete clearance procedures, elect termination options, and submit required pension and claim forms. The Respondent further states that the Organization "stands ready to process all pending entitlements immediately upon the Appellant's completion of the required administrative steps".

24. The Chair also notes the Appellant's counter-contention that any delay is attributable to the Administration's alleged failure to provide the necessary forms, guidance, and assistance to facilitate the separation process. The Appellant also highlights that the process documents were issued by an individual against whom she had filed a misconduct complaint, alleging a conflict of interest.

25. Crucially, it appears from the record that the Appellant is no longer residing in Jamaica and has returned to her home country (France). This geographical separation must be taken into account when assessing the feasibility and practicality of clearance requirements, particularly the return of Authority property.



26. In light of the above, the Chair of the JAB finds that there is no dispute between the parties that:

- a. The Appellant is contractually entitled to the separation benefits.
- b. Not all of the final separation entitlements due to the Appellant have been paid.

27. Before proceeding to a final judgment on Grievance 7, including the central claim of unlawful withholding and also the claim relating to an award of damages or interest, in the interest of judicial fairness and economy, the Chair, after consultation with the Members of the Board, deems it appropriate to provide the parties with a final opportunity to resolve the factual dispute regarding the completion of administrative requirements for the payment of the currently undisputed entitlements.

28. In light of the Respondent's assertion of the Appellant's non-compliance and the Appellant's specific claim of insufficient assistance from the Administration, and recognizing the added complexity introduced by the Appellant's relocation to France, the Board considers that the most effective way to break the current impasse and ensure the Appellant's statutory rights are met is for the Administration to proactively facilitate the completion of the required steps, taking the Appellant's current location into account.

ORDER

IT IS HEREBY ORDERED THAT:

29. The Respondent shall, no later than November 4, 2025, provide the Appellant, through her Counsel, with a single, comprehensive package containing:

I. All necessary forms and specific instructions required for the Appellant to select her termination option, and to process her repatriation travel, relocation shipment, and UNJSPF pension benefits.

II. A final clearance checklist detailing every outstanding item, including any office property to be returned, and clearly specifying the procedure and contact details for the return/resolution of each item. This checklist must contain detailed, step-by-step instructions for the Appellant's completion of requirements from her current location in France, including:

a. For the return of Authority property (e.g., laptop, hard drives, ID card): specific instructions on the designated international delivery company to be used, the account number for the Authority (with shipping costs borne by the Authority), the full shipping address, and, if applicable, detailed requirements for formatting or wiping any data from official electronic devices (e.g., hard drives, laptop).



b. Alternative Resolution for Property: Should the return of an item be proven unduly difficult or costly due to the distance, the Respondent shall provide an option for the Appellant to compensate the Authority. This option must include a specific, itemized proposal for a discount or write-off amount (stating the precise monetary value) to be applied against her separation entitlements, allowing the Appellant to select compensation in lieu of physical return.

c. For other clearance requirements: clear guidance on how to complete the relevant sections remotely (e.g., via digital submission, attested by counsel, etc.).

III. A full summary of all remaining entitlements due, reflecting the Administration's final calculations (including any amounts related to annual leave, termination indemnity, and claim-based benefits such as education grant, which must be accompanied by the required claim forms and a list of necessary supporting documentation).

IV. Confirmation of the name and contact details of a designated Human Resources Officer or Administration official who will serve as the sole point of contact to provide guidance and assistance to the Appellant's counsel in completing these steps.

30. The Appellant shall complete and return all required forms and/or provide evidence of compliance with the outstanding clearance items, to the designated official, no later than November 25, 2025.

31. The Respondent shall, upon receipt of the documentation in paragraph 30, immediately process and disburse all final separation entitlements that are not under active dispute, no later than five working days from the receipt of the Appellant's complete submission. The Respondent shall thereafter inform the Board, in writing, of the actions taken to ensure compliance with this order, including confirmation of the amounts disbursed and the date of payment.

32. The Board is confident that the Parties will recognize that the course of action stipulated in this Order constitutes the most effective and efficient means of ensuring the expeditious and orderly resolution of the outstanding administrative matters pertaining to this grievance. The Board expresses its expectation of full compliance from both Parties and emphasizes that this process presents a pivotal opportunity to finalize the payment of separation entitlements prior to the issuance of the final judgment.

33. Further consideration of Grievance 7, specifically the issues of unlawful withholding and the Appellant's claims for damages and interest, is deferred pending the completion of this Order.

Order dated this 14th day of October 2025



31. In compliance with Order No. 20, on 4 November 2025, the Respondent provided the Appellant, with all relevant forms, instructions, and supporting documentation related to her separation and the payment of undisputed entitlements, including clearance procedures, pension documentation, education grant forms, and a summary of financial entitlements. The Respondent also designated a single Human Resources focal point to assist the Appellant in completing the required steps remotely, ensuring the disbursement of all undisputed separation benefits.

32. On 24 November 2025, the Appellant informed the Board that she would not comply with Order No. 20, contending that the Order was *ultra vires*, reflected a conflict of interest, and improperly conditioned access to justice on her administrative compliance. The Appellant reserved all rights, noting that the matter is now before United Nations Appeals Tribunal (UNAT).

33. As the Appellant has not complied with the Board's directives and the matter is now ripe for decision, the Board is prepared to render its judgment.

Summary of the Appeal

34. The Appellant challenges the Respondent's alleged refusal to pay her due entitlements under ISA Staff Rules and Regulations, following her separation from the ISA, effective 7 January 2025.

35. She submits that this implied administrative decision, though never formally issued, produced clear and adverse legal consequences on her terms of employment and must therefore be subject to review as an administrative decision.

36. The Appellant further contends that her termination was irregular, as staff members are entitled to reasonable notice prior to the cessation of their appointment, which was not accorded in her case.

37. She maintains that she was never provided with a clear and comprehensive statement of her entitlements and that the compensation in lieu of notice was only communicated on 30 January 2025.



38. The Appellant also asserts that her January 2025 payslip reflected an undue deduction of USD 295.20, described as an “airfare difference – London/Lisbon/London.” She claims this charge was made without her prior authorization and without legal justification on the payslip.

39. She argues that the partial payment of certain sums confirms the existence of an implicit decision to withhold the remainder of her entitlements, including relocation-related benefits, shipment of personal effects, family travel, and education allowance.

40. The Appellant submits that the Respondent’s refusal to pay her full entitlements violated her rights under her Letter of Appointment dated 1 January 2024, which established the terms and conditions of her FTA.

41. Specifically, she claims that the following entitlements remain unpaid:

- (a) one month’s salary (January 2025), plus one month’s salary in lieu of notice, including dependency allowance, under Staff Regulation 9.2(a) and Staff Rule 3.5;
- (b) travel on separation and relocation allowance, under Staff Regulation 7.2 and 7.2(c);
- (c) relocation shipment, under Staff Rule 7.22;
- (d) repatriation grant, under Staff Rule 9.8 and Appendix II;
- (e) education grant, under Staff Rule 3.9, including mother tongue allowance pursuant to Staff Regulation 3.4 and Staff Rule 3.9(i);
- (f) excess baggage and unaccompanied shipment, under Staff Rule 7.17;
- (g) payment of accrued annual leave, under Staff Rule 9.10;
- (h) life insurance coverage, under Staff Rule 1.5;
- (i) pension remuneration, under Staff Rule 3.4, and continuation of medical insurance coverage at least until March 2025.

Relief requested

42. The Appellant seeks the following relief:

- (a) A detailed account of all sums paid and remaining due;
- (b) Payment of all due entitlements;
- (c) An award of reasonable legal costs;
- (d) Compensation for moral damages including distress, reputational harm caused by the decision to deliberately withhold due monies.



Request for Oral Hearing

43. The Appellant requests for an oral hearing and the examination of witnesses including:
- a) The former SG;
 - b) The Respondent;
 - c) The Appellant herself.

Summary of the Reply of the Respondent

44. The Respondent contends that the appeal is not receivable, as the Appellant has failed to identify an administrative decision, merely speculating that one “must have arisen” between 7 and 27 January 2025.

45. The Respondent acknowledges that there is no dispute regarding the Appellant’s entitlement to payments arising from her separation.

46. However, the Respondent refutes the Appellant’s allegations and submits that she was duly notified of her termination and the proposed settlement of entitlements, which she did not reply. The same proposal was reiterated in response to her request for administrative review.

47. The Respondent further recalls that the Appellant failed to complete the required documentation necessary to initiate the separation process. She therefore argues that Grievance 7 is not receivable *ratione materiae* and should be dismissed.

Appellant’s Comments on the Respondent’s Reply.

48. In her comments of 19 May 2025, the Appellant maintains that she was never provided with a clear and comprehensive statement of her entitlements.

49. She reiterates that the payments she received were incomplete and contained unexplained deductions, thereby vitiating the lawfulness of the final settlement.

50. The Appellant further submits that the Administration failed to fully and lawfully discharge her termination entitlements, in breach of her terms of appointment, and that this failure constitutes an unlawful implied administrative decision.

51. She also maintains that she was not granted a reasonable notice period prior to termination, in violation of applicable law, and that the measure was imposed without consultation or her consent.



Clarifications Sought by the Chair on Separation Entitlements

52. Pursuant to the Chair's request of 9 July 2025, the Respondent was invited to confirm whether all payments and entitlements due to the Appellant upon her separation had been processed. In her reply of 16 July 2025, the Respondent confirmed that the Appellant's separation entitlements would be processed in due course but reiterated her challenge to the receivability of the appeal on the grounds that no appealable administrative decision had been identified under Staff Rule 11.2.

53. In response, on 24 July 2025, the Appellant submitted that the Respondent had failed to comply with the JAB's directive, as full payment of her separation entitlements had neither been confirmed nor effected. She noted that several entitlements including annual leave, repatriation travel and grant, relocation shipment, pension accrual, and termination indemnity remain unpaid, incorrectly calculated, or unverified. She further highlighted the omission of the education grant and mother tongue allowance, unexplained deductions from the payment in lieu of notice, and the absence of proof of transfer or justification. The Appellant contends that the continued withholding of these sums is unjustified, abusive, and contrary to her terms of appointment, and seeks full payment with interest and costs.

54. On 31 July 2025, in response to the Appellant's comments of 24 July 2025, the Respondent stated that all due entitlements would be processed together with other separation-related payments, conditional upon the Appellant's compliance with the instructions contained in the separation memorandum already in her possession.

55. The Appellant, in turn, replied on 15 August 2025, confirming her acceptance of most of the entitlements as notified, while reiterating her demand that they be paid with interest within five working days. She further requested confirmation from the JAB that it possesses the authority to award damages.

Considerations of the JAB

Preliminary Matters: Request for Oral Hearing

56. The Board recalls that, under Rule 29 of the RoP, oral hearings are not held as of right but may be granted where the Board considers that such a hearing is necessary for the fair and expeditious disposal of the case, or for the clarification of specific factual or legal issues. In the present appeal, which concerns the Appellant's separation-related entitlements, the underlying



legal framework is clear and uncontested, and the issues raised can be determined on the basis of the written submissions without the need for an oral hearing.

57. The Appellant has not demonstrated that live evidence or oral submissions would provide further clarity on the material facts or assist in resolving any contested legal question. The documentary submissions from both parties are comprehensive and sufficient to enable the Board to render its determination.

58. Accordingly, the Board finds that the Appellant's request for an oral hearing is not warranted in the circumstances of this case and is hereby denied.

Preliminary Matters: Competence and recusal of the JAB

59. The Appellant challenges the jurisdiction of the Board itself in her appeal, asserting that the JAB lacks competence to adjudicate matters arising before its reconstitution in January 2025. She submits that the prior dissolution of the internal justice system left a procedural vacuum and invokes the principle of the "natural judge" to argue that her claim should be heard by the United Nations Appeals Tribunal (UNAT) under Article 2.1(b) of its Statute, rather than by the newly reconstituted JAB.

60. The JAB notes that the issue of its competence was first raised by the Appellant in her Statement of Appeal dated 18 March 2025, whereas her request for recusal of the entire JAB panel was only submitted subsequently, on 3 April 2025. Given the foundational nature of the jurisdictional objection namely, that the JAB lacks competence to adjudicate matters arising before its reconstitution, it is appropriate to address this issue first. A tribunal must confirm its authority to hear a case before considering the composition of the adjudicating body.

61. The JAB recalls that, pursuant to ISBA/ST/SGB/2020/1/Amend.3, the ISA Staff Rules were amended on 23 January 2025 to clarify and enhance the judicial powers of the JAB in accordance with UNAT's judgement No. 2023-UNAT-1369. These reforms granted the Board the authority to issue binding determinations, adjudicate disciplinary appeals directly, and function with full judicial independence. The reconstitution of the JAB, implemented on the same date, ensured continuity in the administration of justice and maintained the Appellant's access to an independent adjudicatory mechanism.

62. Moreover, the Appellant's argument that a tribunal must already be constituted at the time the cause of action arises in order to be competent is without merit. Accepting such a



proposition would risk undermining the very possibility of institutional reform or reconstitution of adjudicatory bodies, potentially leaving staff members without recourse during transitional periods. Furthermore, as set out in the procedural history above, there is no doubt that the current composition of the Joint Appeals Board had been fully established by the time Grievance No. 1 was filed on 5 March 2025.

63. In this regard, the JAB finds relevant guidance in the jurisprudence of the United Nations internal justice system, particularly the Campos decisions. In *Campos* UNDT/2009/005, the United Nations Dispute Tribunal (UNDT) explicitly rejected the applicant's request for the recusal of all judges of both the UNDT and UNAT. As noted in paragraph 7.3.1 of the UNDT judgment, "the recusal of all the Judges of the UNDT and UNAT would result in a denial of justice to the Applicant as the only body vested with power to determine his case is the UNDT with an appeal to the UNAT. The Tribunal cannot countenance such a situation and cannot be a party to denying justice to a party." This reasoning was later affirmed by the UNAT in Judgment No. 2010-UNAT-001, which emphasized at paragraph 65 that the UNDT/UNAT lacked any statutory authority to dissolve a tribunal established by the United Nations General Assembly.

64. By analogy, the Appellant in the present case cannot unilaterally negate the mandate of the JAB, which was reconstituted pursuant to ISBA/ST/SGB/2020/1/Amend.3, nor demand wholesale recusal in a manner that would effectively deprive her of access to any competent forum. The JAB, as the body currently empowered by the ISA legal framework to adjudicate internal appeals, cannot entertain arguments that would lead to a procedural vacuum and the denial of justice.

65. Furthermore, the Appellant's argument has already been addressed by the UNAT in Order No. 592 (2025), in which the Tribunal reaffirmed the JAB's competence to consider appeals filed after the reconstitution of the Board and dismissed the Appellant's request for interim relief as moot. The UNAT's finding confirms that the JAB, as currently composed, is a competent body under the ISA framework to adjudicate matters such as the present appeal.

66. The JAB also notes the settled jurisprudence of the UNAT emphasizing the need for judicial finality (*Shanks* 2010-UNAT-026 bis, para. 4; *Dalgaard et al.* 2016-UNAT-646, paras. 9-14; *Loeber* 2018-UNAT-844, paras. 26-28 ; *Ocokoru* 2024-UNAT-1483, para. 50; *Chernov* 2023-UNAT-1320, para. 70). The Appellant's current jurisdictional challenge seeks to reopen matters that have already been settled by the UNAT and this JAB in the context of the earlier



proceedings of SoA. While the Board acknowledges that these jurisdictional issues might remain under review by the UNAT on appeal, it finds that the Appellant's current jurisdictional objections merely revisit those same arguments without presenting any new or compelling basis. As such, these objections do not alter the Board's assessment of its competence in the present case.

67. For these reasons, the JAB confirms its jurisdiction and competence to hear the present appeal and finds no legal basis for referring the matter directly to the UNAT.

Preliminary Matters: Request for Disqualification of the JAB Chair and Members

68. The Board notes that the Appellant submitted a request for the disqualification of four members of the Board, including the Chair, alleging actual or apparent conflicts of interest and raising concerns about the legitimacy of the Board's composition. Such requests engage important principles of impartiality and independence fundamental to the administration of justice.

69. It is well established that adjudicative bodies must be impartial and free from any bias or appearance of bias. The standard for disqualification requires a reasonable apprehension of bias, judged by an objective test whether a reasonable and informed observer would perceive a real likelihood of bias.

70. While the Board notes that the Appellant filed a separate claim in this regard (Grievance # 6), the Board has carefully examined the Appellant's allegations and the circumstances relating to the appointment and constitution of the current JAB. To the extent of this specific case, the Board finds no sufficient basis to conclude that any member's impartiality is compromised or that there exists a real risk of bias. The formation of the JAB complied with the applicable ISA Staff Rules and procedural requirements, and the Board operates independently from the Administration.

71. Accordingly, the Board rejects the Appellant's request for disqualification and confirms its jurisdiction to hear and decide this matter, consistent with its determination in the prior proceedings concerning the Suspension of Action, as set out in Judgment No. ISBA/JAB/Bourrel/2025.



Issues for Determination

72. The Board is called to determine the following issues:
- (a) Whether Grievance 7 deals with an administrative decision subject to appeal under Staff Rule 11.2
 - (b) If receivable,
 - i. whether the procedures established in the ISA Staff Regulations and Rules were properly followed and whether the Appellant was afforded fair and adequate consideration;
 - ii. whether the Appellant received all due entitlements following her separation with the ISA;
 - iii. whether the Appellant is entitled to any remedies including compensation for moral damages caused by the withhold due payment.

Receivability and nature of the contested decision

73. The JAB recalls that, prior to filing an appeal, a staff member is required to clearly identify the administrative decision being contested (*Argyrou* 2019-UNAT-969, para. 32; *Haydar* 2018-UNAT-821, para. 13). Identification of a specific administrative decision within the meaning of ISA Staff Rule 11.2 is a prerequisite for the receivability of an appeal.

74. In the present case, the Appellant identifies the contested decision as that taken by the Secretary-General between 7 and 27 January 2025, namely the refusal to pay her separation entitlements arising from the termination of her FTA.

75. The JAB notes that, while the Appellant asserts that this decision contravenes the terms and conditions of her former employment, she does not specify which contractual provisions were allegedly breached. The allegations in support of Grievance 7 are framed in broad and imprecise terms. In *Massabni* 2012-UNAT-238, UNAT held that “the authority to render a judgment gives the Judge an inherent power to individualize and define the administrative decision impugned by a party and identify what is in fact being contested and subject to judicial review, which could lead to grant, or not to grant, the requested judgment.”¹ Relying on *Massabni*, the JAB determines that the essence of the claim is a challenge to the

¹ See paras. 25 – 27.



Administration's failure to pay separation entitlements following the termination of the Appellant's appointment.

Entitlements following termination

76. Rule 9.7 Notice of termination states that:

(b) A staff member whose temporary appointment is to be terminated shall be given not less than 30 days' written notice of such termination or such notice as may otherwise be stipulated in their letter of appointment.

(c) In lieu of these notice periods, the Secretary-General may authorize compensation equivalent to salary, applicable post adjustment and allowances corresponding to the relevant notice period at the rate in effect on the last day of service.

77. The events leading to the separation process commenced on 7 January 2025, when the OiC OAS informed the Appellant of the termination of her FTA, effective 6 January 2025, on the grounds of the reclassification of her post.

The JAB recalls that in accordance with Staff Rule 9. 7(c) the Interoffice Memorandum dated 7 January 2025, specifically notified to the Appellant that

“[her] current position no longer exists and considering the Authority's obligation to provide a one-month notice, the administration] propose compensating you with one month's pay in lieu of the notice period. This will be paid to [her] main bank account listed in your distribution salary form.”

78. The same Interoffice memorandum explained to the Appellant that to “expedite the initiation of [her] separation process, please get in contact with HR office, she] may also contact them using [her] private email.”

79. On the same date, the OiC of the OAS wrote separately to the Appellant, advising her of her separation entitlements and drawing her attention to the administrative arrangements governing separation from the Authority.

80. On 13 January 2025, a Human Resources Assistant from the OAS informed the Appellant that she was required to complete a clearance form with all relevant units and advised that final payments and disbursements would not be processed until the completed form was submitted to the Travel and Human Resources Unit.



81. In response to the JAB's request for additional information on Grievance 7, the Respondent clarified that, upon separation, the Appellant was entitled to the following:

- i. 36 days of accrued annual leave;
- ii. Travel on separation;
- iii. Seven days' salary for January 2025;
- iv. Relocation shipment or lump sum of USD 18,000;
- v. Pension accruals payable directly by the UNJSPF following the Appellant's submission of the required documents; and
- vi. Termination indemnity in the amount of USD 49,470.99.

82. The Respondent also submitted annexes indicating the total final payment due to the Appellant as USD138,747.63.

83. In her submission, the Appellant contended that, upon separation, she was entitled to an amount of USD142,278.51, with the breakdown as follows:

- i. Payment of accrued annual leave in the amount of USD 24,532.92 for 36 days of annual leave;
- ii. Repatriation grant in the amount of USD 42,519.06;
- iii. Repatriation travel in the amount of USD 4,617.00;
- iv. Salary entitlement for seven days of January 2025 (acknowledged as received) and one month's salary in lieu of notice in the amount of USD 14,821.85,
- v. Relocation shipment or lump sum in the amount of USD 18,000.00;
- vi. Pension contributions payable by the UNJSPF, upon submission of the required forms;
- vii. Termination indemnity in the amount of USD51,180.45 (or alternatively USD 102,360.90 if calculated to the end of her fixed-term appointment); and
- viii. Education grant and mother tongue allowance in the amount of USD 1,429.08. 74.

84. On 16 July 2025, the Respondent notified the JAB that the Appellant had not completed the clearance process required upon separation, and had declined to return office property, including her access badge, iPad, United Nations laissez-passer and diplomatic identification card.

85. The Appellant did not address the clearance process or the return of office property in her submissions.



Procedural Safeguards Afforded to the Appellant

86. The JAB recalls that, as a matter of settled jurisprudence, official acts of the Administration are presumed to have been regularly performed. This presumption, however, may be rebutted where the staff member demonstrates, by clear and convincing evidence, that a material irregularity has occurred.²

87. In the present case, the JAB finds no such procedural irregularity in the manner by which the Appellant's termination entitlements were processed. The record shows that, by IoM of 6 January 2025 (transmitted on 7 January 2025), the Authority duly informed the Appellant of the termination of her appointment, explained the steps to initiate her separation process, and advised her to liaise with the Human Resources Office to retrieve her belongings. The Appellant herself confirmed that she accessed the premises on 5 February 2025 for this purpose.

88. The Appellant has not demonstrated that the Administration refused to pay her lawful entitlements. To the contrary, the evidence indicates that, as early as 13 January 2025, she was informed of the steps required to process her separation benefits, including the need to complete the clearance procedure. The Administration also initiated payment in lieu of notice, acting in good faith to finalize the separation process.

89. As regards the alleged unlawful deductions, the Appellant acknowledged that she was informed of the reason namely, an airfare difference of USD 295.20. Furthermore, she conceded that the payment she received on 12 February 2025 substantially corresponded with the payroll figures previously communicated on 30 January 2025. On this basis, the JAB finds no evidence of arbitrary or unlawful deductions.

90. The record further shows that the Administration reminded the Appellant on both 13 and 28 January 2025 to complete the clearance process, which constituted a necessary precondition for the release of her final entitlements. However, when she attended the ISA premises on 5 February 2025, she neither returned office property nor submitted the required clearance form.

² *Rolland* 2011-UNAT-122, para. 26; *Ibekwe* 2011-UNAT-179, para. 30; *Landgraf* 2014-UNAT-471, para. 28; *Dhanjee* 2015-UNAT-527, para. 30; *Zhuang, Zhao & Zie* 2015-UNAT-536, para. 48; *Staedtler* 2015-UNAT-547, para. 27; *Survo* 2015-UNAT-595, para. 68; *Niedermayr* 2015-UNAT-603, para. 23; *Ngokeng* 2017-UNAT-747, para. 33–34; *Lemonnier* 2017-UNAT-762, paras. 37–39.



Her non-compliance with these procedural obligations prevented the Administration from completing the payment of her entitlements.

91. The evidence shows that part of the Appellant's entitlements such as payment in lieu of notice was duly processed and disbursed. The remaining balance, however, was not released because the Appellant did not complete the mandatory clearance procedure, which required the return of office property and submission of the clearance form.

92. The JAB observes that, while there is still an apparent difference between the amount acknowledged as due and believed to be entitled to, the Appellant's grievance seems to rest mainly on the fact that she has not yet received the outstanding balance. The JAB finds that this situation does not amount to an administrative decision refusing payment, but rather a delay resulting from her own non-compliance with the prescribed clearance requirements.

93. In light of the foregoing, and taking particular account of the Appellant's continued failure to comply with the procedural steps repeatedly explained to her during the administrative phase including the mandatory clearance requirements and subsequently reaffirmed and facilitated by the Board through Orders Nos. 16 and 20, the JAB concludes that the evidentiary record remains insufficient to establish the existence of a reviewable administrative decision within the meaning of Staff Rule 11.2. The Board is therefore unable to reach any determination on the merits of the Appellant's allegation that her outstanding entitlements were unlawfully withheld. Accordingly, the appeal in Grievance 7 must be dismissed.

94. The Board further observes, with due regard for institutional prudence and the limits of its mandate, that the Orders issued were intended solely to enable the Appellant to complete the administrative formalities required for the release of any pending separation payments. These measures which included unambiguous instructions and the option to comply remotely were designed to safeguard procedural fairness while preserving the integrity of established administrative processes. The Appellant, however, declined to adhere to the directives set forth in the Orders. She could have complied with those directives without prejudice to her claims. Her non-compliance has prevented the Board from resolving the remaining factual issues and, consequently, from determining whether any additional entitlements may be due. This forecloses any further basis for judicial intervention. As no final administrative decision refusing payment has been issued, and as the Appellant elected not to avail herself of the mechanisms afforded to her, the Board considers the matter closed.



Conclusion

95. Accordingly, the appeal under Grievance 7 is dismissed in its entirety.

Dated this 5th day of December 2025

Judge Martha Halfeld Furtado de Mendonça Schmidt

Chair, Joint Appeals Board

Abena Kwakye-Berko

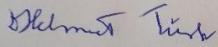
Member, Joint Appeals Board

Courtney Maxwell

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Helmut Tuerk

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Jiefang Huang

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