



JOINT APPEALS BOARD

Case No. ISBA/JAB/APPEAL/PUSZTAI/2025

David Pusztai (the “Appellant”)

v.

**Secretary General of the International Seabed Authority
(the “Respondent”)**

Order No. 12 (2025)

Order on Request for Disqualification of a Board Member

Procedural background

1. On 4 March 2025, the Appellant submitted a Statement of Appeal before the Joint Appeals Board (the “JAB/Board”) in accordance with Staff Rule 11.2 of the Staff Rules of the International Seabed Authority (the “ISA/Authority”). Following the entry into force of the Revised Rules of Procedure (the “RoP”) on the same date, the Appellant resubmitted his appeal on 15 March 2025, which the JAB Secretariat duly acknowledged.
2. On 28 March 2025, the JAB Secretariat informed the Appellant that his appeals would be heard by the full Joint Appeals Board.
3. On 3 April 2025, the Appellant submitted a letter to the Board and the Respondent objecting to the referral of his appeal to the “full Board” under the Revised RoP. He argued that this arrangement was contrary to Staff Rule 11.2(e), raised concerns regarding the reconstitution of the Board in January 2025, and questioned the impartiality of members appointed thereafter.
4. On 21 July 2025, the Appellant submitted a letter to the Board and the Respondent raising objections of conflict of interest, specifically requesting the recusal of Ambassador Gina Guillén-Grillo, a member of the Board and the disqualification of one of the Respondent’s representatives.



5. In his letter of 21 July 2025, the Appellant argued that the continued participation of Ambassador Guillén-Grillo on the Board gave rise to a conflict of interest, on the grounds that her prior statements during the Council's deliberations demonstrated support for the Secretary-General (the "Respondent") in matters directly connected to his appeal. The Appellant accordingly requested her recusal from the Board's consideration of his case and raised similar concerns regarding the participation of one of the Respondent's representatives.

6. On 31 July 2025, the Appellant submitted an application for the immediate disqualification of Ambassador Guillén-Grillo, further to his letter of 21 July 2025. The application was based on remarks made by Ms. Guillén-Grillo during the Council's deliberations on 17 July 2025, which the Appellant argued created an appearance of partiality in favour of the Secretary-General.

7. The Application alleges that Ambassador Guillén-Grillo, during the Council meeting's discussion of the Finance Committee Report on 17 July 2025, expressed "full support" for the Secretary-General of the ISA in a context involving human resources matters relevant to the Appellant's appeal. The Appellant submits that such remarks create an appearance of bias and impair her ability to act impartially.

8. The Appellant notes that Ambassador Guillén-Grillo has not responded to his letter of 21 July 2025, and that neither she nor the Respondent has contested the factual substance of the statement as alleged.

9. In response to the Board, Ambassador Guillén-Grillo clarified that her intervention was delivered in her capacity as Head of Delegation of Costa Rica, was part of a broader statement supporting the Chair of the Finance Committee, thanking for the report, and addressing the report's contents. She stated that she did not focus on appointments or matters related to the appeal and that expressions of support for institutional work are standard in diplomatic proceedings.

10. Pursuant to Rule 26.1 of the Revised RoP, the decision on recusal requests rests with the Chair of the Board. Consistent with jurisprudence, including para. 32 of Aysha Al-Rifai 2022-UNAT-1240, such decisions are to be rendered separately and prior to any ruling on the merits.



Applicable Legal Framework

11. Rule 26(4) of the JAB RoP defines conflict of interest as “any factor that may impair or reasonably give the appearance of impairing the ability to decide independently and impartially on an appeal.” A member with a conflict shall recuse themselves, failing which the Chair may decide on disqualification. This requirement of impartiality is in accordance with the UNAT rulings to preclude bias and retain the principle of impartiality (See Al-Rifai 2022-UNAT-1240, para. 28).

12. It is a well-established principle that adjudicators must withdraw from a matter where impartiality may reasonably be questioned (Varnet v. UNESCO, ILOAT Judgment No. 179; Finnis 2014-UNAT-397, para. 22; Savadogo 2016-UNAT-642, para. 48). The test is whether “a fair-minded and informed observer, having considered the facts, would conclude that there is a real possibility of bias” (Masri 2016-UNAT-626, para. 21).

Analysis

13. The core issue is whether Ambassador Guillén-Grillo’s expression of “full support” to the Secretary-General, in the context of a Council meeting, would lead a reasonable and informed observer to conclude that there is a real possibility of bias in adjudicating the Appellant’s appeal.

14. It is undisputed that the statement in question was made while Ambassador Guillén-Grillo was acting as Costa Rica’s Head of Delegation, speaking on behalf of her government during formal Council deliberations. Such interventions are part of the diplomatic function of national representatives.

15. There is nothing in the applicable framework that prohibits an active diplomat from being appointed in their personal capacity, from serving as a JAB member, provided they can act independently and impartially. The decision to appoint such individuals is a policy matter beyond the JAB’s mandate to review.

16. The Appellant’s allegation of bias is based solely on the cited generic phrase of “full support” and does not point to any conduct by Ambassador Guillén-Grillo in her role as a JAB member that would indicate personal prejudice or predisposition in this case.



17. In an overturned case, involving a judge who “has erred previously” even in the same case, the UNAT ruled that it was “not alone a ground to disqualify that same judge from deciding other issues in or the remainder of the case” (See Nigam 2024-UNAT-1446, para. 19).
18. Furthermore, Ms. Guillén-Grillo, who has served as a Board Member elected by the staff before the recomposition of the Board in 2025, explained that her remarks were part of a longer statement covering procedural and substantive points unrelated to the Appellant’s case and did not address personnel appointments at issue in the appeal.
19. The impartiality of all JAB members is presumed unless proven otherwise. On the evidence before the Chair, there is no objective basis to conclude that Ms. Guillén-Grillo’s ability to decide the appeal independently and impartially is impaired, or that there is a reasonable appearance of such impairment.
20. Having considered the Appellant’s submissions, Ms. Guillén-Grillo’s clarification, and the applicable legal standards, the Chair finds that the circumstances do not meet the threshold for disqualification under Rule 26(4). The JAB retains its jurisdiction to hear and decide the Appellant’s appeal with its current composition.
21. The Appellant further submits that the transition of a former Secretary of the JAB to the position of representative for the Secretary-General gives rise to a conflict of interest and thereby undermines the integrity of the present proceedings.
22. The Chair recalls, however, that there is no provision prohibiting a former staff member of the JAB Secretariat from subsequently serving in other functions within the Organization, including as representative of the Secretary-General, provided that the duty of confidentiality with respect to matters dealt with in their previous role is strictly maintained.
23. It must also be underscored that the Secretary of the JAB acts solely in an administrative capacity, facilitating the Board’s work. The Secretary does not participate in deliberations in a voting capacity, nor does they hold decision-making authority with respect to appeals. Both procedural and substantive determinations fall exclusively within the competence of the adjudicating members of the Board.



24. Furthermore, following the reconstitution of the JAB, the former Secretary no longer holds any role in its work. The Board is assisted exclusively by its current Secretary—the sole member of the JAB Secretariat—who was already in post at the time the present appeal was filed on 4 March 2025. This continuity preserves the integrity of the Secretariat’s functions and safeguards the independence of the Board in the present proceedings.

ORDER

25. For the aforementioned reasons,

(a) the Appellant's request for disqualification of a Board’s member is **REJECTED**;
and

(b) the Appellant’s request for an order directing the Secretary-General to disinstruct a staff member as her party representative is **DISMISSED**.

26. The Appellant’s remaining submissions, including his letter of 3 April 2025, will be addressed in the final judgment in the case of David Pusztai v. Secretary-General of the ISA.

Order dated 19th day of August 2025

Judge Martha Halfeld Furtado de Mendonça Schmidt

Chair of the Joint Appeals Board