



JOINT APPEALS BOARD

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

Khalilah Hackman (the “Appellant”)

v.

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

Order No. 13 (2025)

Order on Request for Disqualification of a Board Member

Procedural background

1. On 6 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”).
2. On 17 March 2025, the Chair of the Board invited the parties to engage in conciliation in accordance with Rule 9 of the Rules of Procedure. The Respondent declined the offer of conciliation.
3. On 28 March 2025, the Secretariat informed the Appellant that her appeal would be heard by the full Joint Appeals Board.
4. On 2 April 2025, the Appellant addressed a letter to the Chair of the JAB contesting the referral of her appeal to the “full Board”. The Appellant invoked Staff Rule 11.2(e)(i), which requires a three-member panel consisting of the Chair, one member appointed by the Secretary-General, and one member elected by the staff. She argued that this prescription should prevail over the revised Rules of Procedure and further expressed concerns regarding the independence and constitution of the current Board.



5. On 21 July 2025, the Appellant addressed a further letter to the Board, reiterating concerns arising from the decision to refer her appeal to a full Board and raising an objection under Rule 26(4) of the Rules of Procedure. The Appellant invoked the requirement that a member who appears to have a conflict of interest must recuse themselves, submitting that such circumstances had arisen in respect of Ambassador Gina Guillén-Grillo.

6. The Appellant referred to the Council's deliberations of 17 July 2025 on the Finance Committee Report, during which Ambassador Guillén-Grillo, in her capacity as representative of Costa Rica, expressed support for the Secretary-General (the "Respondent"). The Appellant contended that such remarks, given in a context involving matters connected to pending appeals, gave rise to an appearance of bias and impaired the Ambassador's ability to act impartially in her role as a member of the Board.

7. In light of the foregoing, the Appellant requested that Ambassador Guillén-Grillo recuse herself from participation in the review of the appeal and further requested that the Secretariat circulate the letter to all members of the Board and notify her of the Ambassador's position on the matter.

8. 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.

9. 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

10. Rule 26(4) of the JAB Rules of Procedure 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).

11. 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

12. 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.

13. 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.

14. 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.

15. 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.

16. 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).



17. 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.

18. 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.

19. 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.

ORDER

20. For the aforementioned reasons, the Appellant's request for disqualification of a Board member is REJECTED; and

21. The Appellant's remaining submissions, including her letter of 2 April 2025, will be addressed in the final judgment in the case of *Khalilah Hackman v. Secretary-General of the ISA*.

Order dated 19th day of August 2025

A handwritten signature in blue ink, reading "M Halfeld", is placed above the judge's name.

Judge Martha Halfeld Furtado de Mendonça Schmidt

Chair of the Joint Appeals Board