



JOINT APPEALS BOARD

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

Giovanni Ardito (the "Appellant")

v.

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

Order No. 15 (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").
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 2 April 2025, the Appellant submitted a letter to the Chair of the JAB objecting to the decision that his appeal would be reviewed by the full Board. The Appellant contended that Rule 28 of the revised JAB Rules of Procedure (RoP) conflicted with Staff Rule 11.2(e), which requires that each appeal be considered by a three-member panel, and that the involvement of the full Board undermined the integrity of the proceedings. He further submitted that the Secretary-General's reshuffling of the JAB gave rise to doubts as to impartiality and due process and identified certain members as potentially conflicted.
4. On 20 August 2025, the Appellant submitted a follow up letter to the Chair of the JAB, noting that no response had been provided to his disqualification request of 2 April 2025. He drew attention to remarks made by Ambassador Guillén-Grillo during the 30th session of the ISA Council on 17 July 2025, in which she expressed support for the Secretary-General, and submitted that these remarks could raise concerns regarding impartiality.



5. The Appellant also noted procedural questions arising from the Chair's decision to refer the Appeal to the full Board, observing that the default disqualification procedure under Staff Rule 11.2(e)(iii) and the RoP does not specifically address full Board proceedings. He further submitted that it was unclear which member, under the present circumstances, would be able to consider the disqualification request.

6. The Appellant further indicated that, in an email dated 16 July 2025, the Secretary of the JAB had stated that issues regarding panel composition would be addressed in the judgment. He submitted that, consistent with established practice of the UNDT and UNAT, matters relating to panel composition are generally resolved by order prior to consideration of the merits and requested that his motions concerning the disqualification of the certain members, as well as concerns regarding the full Board review, be addressed before adjudication of the Appeal.

7. 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.

8. 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

9. 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).



10. 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

11. 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.

12. 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.

13. 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.

14. 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.

15. 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).

16. Furthermore, Ambassador 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.



17. The Chair further notes the Appellant's allegations concerning Ambassador Grillo's participation a previous case. These claims are unfounded, as the decision on intervention was taken collectively by the panel and not by her individually. The reference to alleged actions in that case pertains to matters outside the scope of the present appeal and does not establish any lack of independence or impartiality. Accordingly, these arguments cannot justify her disqualification.

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 his letter of 2 April 2025, will be addressed in the final judgment in the case of *Giovanni Ardito v. Secretary-General of the ISA*.

Order dated 21st day of August 2025

Judge Martha Halfeld Furtado de Mendonça Schmidt

Chair of the Joint Appeals Board