



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2026-UNAT-1680

Marie Bourrel-McKinnon
(Appellant)

v.

Secretary-General
of the International Seabed Authority
(Respondent)

JUDGMENT

Before:	Judge Leslie F. Forbang, Presiding Judge Graeme Colgan Judge Gao Xiaoli
Case Nos.:	2025-2084, 2026-2126 & 2026-2129
Date of Decision:	25 June 2026
Date of Publication:	22 July 2026
Registrar:	Juliet E. Johnson

Counsel for Appellant:	Alexandre Philippe Haines
Counsel for Respondent:	Steven Dietrich/Talatu Akindolire

JUDGE LESLIE FORBANG, PRESIDING.

1. The United Nations Appeals Tribunal (UNAT or Appeals Tribunal) is seized of separate appeals by Ms. Marie Bourrel-McKinnon, the former Chief of Staff and Head of Strategic Planning Unit (D-1) of the International Seabed Authority (ISA), filed on 14 November 2025, 1 February 2026,¹ and 3 February 2026, respectively against the following Decisions of the ISA Joint Appeals Board (JAB, Appeals Board or Board):

- “Judgment of the Board relating to Grievance 3 submitted by the Appellant, *Amendment of Administrative Instruction ISBA/ST/AI/2023/3*”, issued on 17 September 2025 (JAB Decision 3) (assigned UNAT Case No. 2025-2084);
- “Judgment of the Board relating to Grievance 2 submitted by the Appellant, *i. Reclassification and Restructuring of the Appellant’s Post ii. Termination of the Appellant’s Fixed-Term Appointment*”, issued on 5 December 2025 (JAB Decision 2) (assigned UNAT Case No. 2026-2126); and
- “Judgment of the Board relating to Grievance 7 submitted by the Appellant, *Entitlements arising from Separation from Service*”, issued on 5 December 2025 (JAB Decision 7) (assigned UNAT Case No. 2026-2129).

2. For the reasons set out below, the appeals of Ms. Bourrel-McKinnon are granted in part, the JAB Decisions are quashed, and the matters are remanded for rehearing consistent with this Judgment.

Facts and Procedure

3. Ms. Bourrel-McKinnon is a former staff member of ISA. At the time of the events, she held the position of Chief of Staff and Head of Strategic Planning Unit, at the D-1 level.²

4. On 1 January 2025, the new Secretary-General commenced her tenure.³

5. On 6 January 2025, the Secretary-General circulated Administrative Instruction ISBA/ST/AI/2023/3/Amend.2 (Staff selection system) amending its Annex (Procedures for classification and reclassification of posts) to allow the Secretary-General to directly authorize the reclassification of a position without requiring prior submission in accordance with standard

¹ The appeal was refiled on 3 February 2026 to conform with the UNAT’s formal requirements.

² JAB Decision 3, para. 1.

³ *Ibid.*, para. 4.

classification procedures “[o]n an exceptional basis” “during periods of office restructuring or reform”.⁴

6. On 7 January 2025, Ms. Bourrel-McKinnon was notified that her post had been reclassified and restructured into a different role, resulting in her termination effective that same day.⁵

7. On 5 March 2025, Ms. Bourrel-McKinnon filed an appeal, registered as Grievance 2 before the JAB challenging the 7 January 2025 decision terminating her appointment.⁶

8. On 14 March 2025, Ms. Bourrel-McKinnon filed an appeal registered as Grievance 3 before the JAB challenging the 6 January 2025 decision to amend the Annex to Administrative Instruction ISBA/ST/AI/2023/3.⁷

9. On 20 March 2025, Ms. Bourrel-McKinnon filed an appeal registered as Grievance 7 before the JAB challenging the Administration’s decision, which she submits was made between 7 and 27 January 2025, refusing to pay entitlements that she claims she is legally entitled to under the Staff Regulations and Rules.⁸

10. On 28 March 2025, the JAB Secretariat notified Ms. Bourrel-McKinnon that her appeals would be heard by the full Board, as they were substantively similar to other pending appeals in context and compensation sought. To ensure consistency and avoid conflicting outcomes, the Chair, pursuant to Rule 28 of the JAB Rules of Procedure as revised on 4 March 2025 (JAB Rules) and established tribunal practices, decided to hear them together.⁹

11. On 17 September 2025, the JAB issued JAB Decision 3, dismissing Ms. Bourrel-McKinnon’s Grievance 3 as not receivable.

12. On 5 December 2025, the JAB issued JAB Decision 2, dismissing Ms. Bourrel-McKinnon’s appeal on grounds that the claim concerning the reclassification of her post was not receivable; and her claim concerning the termination of her appointment was without merit as the termination had been effected lawfully and with due process.

⁴ *Ibid.*, para. 5.

⁵ *Ibid.*, para. 7.

⁶ JAB Decision 3, para. 2.

⁷ JAB Decision 2, para. 2.

⁸ JAB Decision 7, para. 2.

⁹ *Ibid.*, para. 15; JAB Decision 2, para. 15; JAB Decision 3, para. 18.

13. Also on 5 December 2025, the JAB issued JAB Decision 7, dismissing Ms. Bourrel-McKinnon's appeal in its entirety on grounds that there was no refusal by the Administration to pay her entitlements which would amount to a reviewable administrative decision, but rather there was a delay resulting from her own non-compliance with the prescribed clearance requirements.

14. In JAB Decisions 2 and 3, the Appeals Board justified the hearing of the cases by a seven-member Panel as follows:¹⁰

... The Board recalls that, in the present case, the judgment was deliberated upon and adopted by the full composition of the Joint Appeals Board. This approach reflects both the significance of the issues under review and the Board's concern for ensuring collective responsibility in its determinations.

... The Board observes that, while Staff Rule 11.2(e)(i) provides for a Panel to ordinarily hear an appeal, it must be read together with Staff Rule 11.1(e), which authorizes the Joint Appeals Board to establish its own rules of procedure. Pursuant to this authority, Rule 28 of the [JAB Rules] expressly provides that when the Chair, or any two members sitting on a particular Panel, consider that the appeal so warrants, the case shall be heard by the whole Board. This framework is consistent with the Staff Rules, which do not preclude the hearing of cases by the full Board.

... In the present circumstances, the pending appeals share significant similarities, both in their factual context and in the nature of the remedies sought. Referring these cases to the full Board avoids the risk of divergent conclusions by different Panels and promotes consistency, coherence, and procedural efficiency. Moreover, the practice of referring complex or precedent-setting cases to a full bench is well established in other international administrative tribunals, reinforcing the legitimacy of this approach. Accordingly, the referral of the Appellant's case to the full Board was justified and fully in line with the applicable Staff Rules and the [JAB Rules].

15. JAB Decision 7 does not address the referral of the appeals to a seven-member Panel in its "Considerations".

16. Ms. Bourrel-McKinnon appealed all three JAB Decisions to the Appeals Tribunal.¹¹

¹⁰ JAB Decision 2, paras. 72 to 74; JAB Decision 3, paras. 57 to 59.

¹¹ See para. 1 above.

17. By Order No. 680 (2026) dated 19 June 2026, the Appeals Tribunal consolidated the three appeals for all purposes.¹²

Submissions

18. Each of the appeals raises numerous errors of fact, law and procedure.

19. There is however a fundamental issue affecting all three now consolidated appeals by Ms. Bourrel-McKinnon, which issue is addressed by this Judgment. As will be discussed in detail below, it is a preliminary jurisdictional issue which precludes the Appeals Tribunal from considering and deliberating the arguments presented by the parties on appeal. Because this Judgment does not turn on the parties' arguments and the Appeals Tribunal is precluded from considering them, we will not summarize the parties' submissions as we usually do.

20. Suffice it to say that Ms. Bourrel-McKinnon asks that the Appeals Tribunal reverse all three Decisions, decide the matters itself and award different types of compensation as well as legal costs. Ms. Bourrel-McKinnon also requests that the Appeals Tribunal hold an oral hearing.

21. The Secretary-General asks that the Appeals Tribunal affirm the JAB Decisions, dismiss the appeals and find them frivolous or devoid of merit.

Considerations

Whether the JAB Panel was lawfully constituted

22. The preliminary and main issue for our determination in these appeals is whether the JAB erred in convening a seven-member panel to entertain the three appeals by Ms. Bourrel-McKinnon contrary to the Staff Rules. This being a threshold jurisdictional issue, it must, as we stated in an earlier matter, be addressed *proprio motu* and "determined preliminarily, even on final appeals as these are".¹³

23. We find that it was a fundamental error as it touched on the lawful constitution of the JAB Panel that rendered the Decisions that are now before the UNAT.

¹² *Marie Bourrel-McKinnon v. Secretary-General of the United Nations*, Order No. 680 (2026) dated 19 June 2026.

¹³ *Marie Bourrel-McKinnon v. Secretary-General of the United Nations*, Judgment No. 2026-UNAT-1679, para. 26.

24. Staff Rule 11.2(e)(i) expressly provides that “[f]or the consideration of each appeal, the Chair of the Joint Appeals Board shall constitute a panel of the board” made up of three persons; a Chair, a member selected from amongst those appointed by the Secretary-General, and a member selected from amongst those elected by the Staff.

25. Now, contrary to the express provision above, in each of the three consolidated cases on appeal, the Chair of the JAB convened a full Board of seven members to determine them. The decision to convene a full Board was predicated on Rule 28 of the JAB Rules, which permitted an appeal to be heard by the full Board when the Chair or any two members sitting on a particular appeal consider a full Bench to be warranted.

26. It is a trite principle that the JAB Rules are subordinate to the Staff Rules and cannot be interpreted so as to expand the Appeals Board’s jurisdiction beyond that established by the primary governing regulatory framework, i.e. the Staff Rules.

27. Since the JAB Rules cannot expand the jurisdiction of the Appeals Board as established by the superior norm, the Staff Rules, the JAB erred in these cases by setting up a seven-member panel when only a three-member panel was envisaged under Staff Rule 11.2(e).

28. We recall our position in *Marie Bourrel-McKinnon*, a Judgment issued this summer session that: “in constituting JAB Panels, the JAB must comply with the Staff Regulations and Rules. It cannot in law rely on the JAB Rules that conflict with the Staff Regulations and Rules: the former must yield to the latter.”¹⁴ The respect for the hierarchy of norms has been restated in a most recent decision of this Tribunal in *Opero* issued at this summer session which is “reflective of such previous judgments as *De Aguirre* and *Couquet*”.¹⁵

29. Since as discerned above, Staff Rule 11.2(e)(i) does not contemplate a JAB Panel of more than three members, the setting up of a full Board to hear each of the consolidated appeals was therefore unlawful.

30. Based on our findings above, we need not determine the merits of the consolidated appeals. They shall be remanded for consideration by a lawfully constituted Panel of the JAB.

¹⁴ *Ibid.*, para. 36.

¹⁵ *Ibid.*, para. 34, citing *Couquet v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-574, para. 39 and *De Aguirre v. Secretary-General of the United Nations*, Judgment No. 2016-UNAT-705, para. 44.

Ms. Bourrel-McKinnon's remaining claims are equally dismissed without prejudice to their being considered in future proceedings before the UNAT.

Request for an oral hearing

31. Ms. Bourrel-McKinnon requests an oral hearing before the Appeals Tribunal. She claims that an oral hearing is needed so that the Appeals Tribunal can hear all submissions related to each appeal, can hear live evidence from key witnesses and has the ability to ask questions.

32. Article 8(3) of the Statute and Article 18(1) of the Appeals Tribunal Rules of Procedure (Rules) govern oral hearings before the Appeals Tribunal. Article 18(1) of the Rules stipulates that: "The judges hearing a case may hold oral hearings on the written application of a party or on their own initiative if such hearings would assist in the expeditious and fair disposal of the case".

33. Since the JAB Panel was unlawfully constituted and the cases must be remanded, there is no need for an oral hearing. Ms. Bourrel-McKinnon's request for an oral hearing must be denied.

Judgment

34. The appeals of Ms. Bourrel-McKinnon are granted in part, the JAB Decisions are quashed, and the matters are remanded to a lawfully constituted Panel for rehearing consistent with this Judgment.

Original and Authoritative Version: English

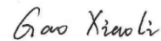
Decision dated this 25th day of June 2026 in New York, United States.



Judge Forbang, Presiding



Judge Colgan



Judge Gao

Judgment published and entered into the Register on this 22nd day of July 2026 in New York, United States.



Juliet E. Johnson, Registrar