

2022-UNAT-1189, Louis Savadogo

UNAT Held or UNDT Pronouncements

The UNAT noted that in this case, the JAB made not a decision, but rather a recommendation to the Registrar of the ITLOS, who in turn, purported to make the decision about Mr. Savadogo's appeal. The UNAT recognized that the ITLOS changed and consolidated the relevant Staff Regulations and Rules so that the JAB now makes decisions (from which appeals may be brought to the UNAT) rather than, as occurred in this case, recommendations to the Registrar of the ITLOS, which the Registrar may or may not accept. However, this amendment came too late for the parties in this case. Thus, the original decision about Mr. Savadogo's non-selection, and the decision on appeal against it, were made by the Registrar, which was non-compliant with Article 2(10) of the UNAT Statute, which is what gives the Appeals Tribunal the power to determine Mr. Savadogo's case. The UNAT thus was without jurisdiction to hear his appeal and remanded the case to the JAB of the ITLOS.

Decision Contested or Judgment/Order Appealed

Mr. Savadogo appeals the ITLOS Registrar's decision of 27 December 2020 to accept the Joint-Appeals Board (JAB) recommendation to pay him USD 2,000 for breach of his due process rights.

Legal Principle(s)

For the UNAT to have jurisdiction to consider an appeal from a staff member of a body like the International Tribunal of the Law of the Sea (ITLOS), the staff member's claim has to be decided by a neutral, independent authority and not by the employer (in the person of the head of the Agency) on the recommendation of such a neutral first instance body.

Under Article 2(10), there must be a neutral, decision-making first instance process put in place by the Agency, such that the UNAT's role is that of a second tier and final appellate tribunal.

When the agency does not have a neutral decision-making body from which appeals may go to the UNAT, the UNAT has no jurisdiction to consider the appeal substantively and must say so. In such cases, the UNAT has sent the case back to the agency to be decided by a properly constituted, neutral decision-making (not advisory) body.

The "neutral first instance process" referred to in the UNAT Statute must be a decision-making process. Neutrality means independence of the body, person or agency against whom the claim is brought. The neutrality cannot encompass a process in which the appellate decision-maker is the same person as made the original decision which is the subject of the appeal. The decision-maker in the staff member's case must be neutral and must be part of the required neutral process.

Outcome

Case remanded

Outcome Extra Text

UNAT declined to receive the appeal for jurisdictional reasons and remanded the case to the JAB/ITLOS for decision by the JAB as a neutral decision-maker.

Full judgment

[Full judgment](#)

Applicants/Appellants

Louis Savadogo

Entity

ITLOS

Case Number(s)

2021-1537

Tribunal

UNAT

Registry

New York

Date of Judgement

18 Mar 2022

President Judge

Judge Raikos

Judge Colgan

Judge Halfeld

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNAT)

Applicable Law

UNAT Statute

- Article 2.10

Related Judgments and Orders

2021-UNAT-1148

2019-UNAT-957

2019-UNAT-949

2019-UNAT-958