



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2023-UNAT-1337

**Louis Savadogo
(Appellant/Applicant)**

v.

**Registrar
of the International Tribunal
for the Law of the Sea
(Respondent)**

JUDGMENT

Before:	Judge Graeme Colgan, Presiding Judge Dimitrios Raikos Judge Martha Halfeld
Case Nos.:	2022-1664 & 2022-1707
Date of Decision:	24 March 2023
Date of Publication:	2 May 2023
Registrar:	Juliet Johnson

Counsel for Mr. Savadogo: Ludovica Moro

Counsel for ITLOS: Ximena Hinrichs Oyarce

JUDGE GRAEME COLGAN, PRESIDING.

1. Louis Savadogo has two matters currently before the United Nations Appeals Tribunal (UNAT or Appeals Tribunal). For reasons that will become apparent, while we have consolidated decision of these in a single judgment, they will be addressed separately. Filed first in time is an appeal against a decision of the Joint Appeals Board (JAB) of the International Tribunal for the Law of the Sea (ITLOS or Tribunal) dated 5 November 2021 (JAB Decision) relating to the cancellation of a recruitment process.¹ We will refer to this case as Mr. Savadogo's appeal.

2. Filed second in time is Mr. Savadogo's application for an order for execution of Judgment No. 2022-UNAT-1189 of this Tribunal remitting another associated case brought by Mr. Savadogo for decision by the ITLOS JAB.² Mr. Savadogo says that the UNAT's directions in the latter Judgment have not been complied with by the JAB. We will call this second case his application for execution of judgment.

3. For the reasons set out below we dismiss the appeal and affirm the JAB Decision, dismiss Mr. Savadogo's application for execution, and give a direction for temporal compliance with our previous Judgment in respect of which execution was sought.

Facts and Procedure

4. Mr. Savadogo's challenges with respect to an ITLOS vacancy have been the subject of several decisions and judgments and we do not propose to repeat the history of the cases referred to therein.³ Rather, the following are the pertinent events leading to the current appeal.

5. Mr. Savadogo joined the ITLOS as a Legal Officer at the P-4 level in 2001. On 8 May 2007, the ITLOS announced a vacancy for the post of Head of Legal Office/Senior Legal Officer at the P-5 level. Mr. Savadogo was one of 37 applicants who subsequently applied for that appointment.

¹ International Tribunal for the Law of the Sea, Joint Appeals Board, Case No. ITLOS/JAB/2021/8, Report adopted on 5 November 2021.

² *Louis Savadogo v. Registrar of the International Tribunal for the Law of the Sea*, Judgment No. 2022-UNAT-1189.

³ See, e.g., *Louis Savadogo v. Registrar of the International Tribunal for the Law of the Sea*, Judgment No. 2021-UNAT-1123; *Savadogo v. Registrar of the International Tribunal for the Law of the Sea*, Judgment No. 2016-UNAT-642.

6. On 6 October 2017, the President of the ITLOS, upon the recommendation of its Committee on Staff and Administration, approved a shortlist of six candidates, divided into two groups.⁴ “Group priority No. 1” was comprised of four candidates, including Mr. Savadago. These candidates’ names were listed in alphabetical order. “Group priority No. 2” was comprised of the other two shortlisted candidates, also listed in alphabetical order. On 26 October 2017, the shortlisted candidates were invited to sit a written test and take part in an interview on 23 November 2017. Because of Mr. Savadago’s inability to participate on 23 November, these exercises were postponed to 17 January 2018.

7. In the meantime, there arose a dispute between Mr. Savadago and the Head of Personnel in which he wished the shortlist to name candidates in order of priority for selection and the suspension of the recruitment exercise until this was done. The Head of Personnel refused to agree to this. On 29 December 2017, Mr. Savadago requested management evaluation of the decision not to suspend the recruitment process but this review was declined on 15 January 2018 by the Registrar.⁵

8. Two days later, on 17 January 2018, Mr. Savadago sat the written test as re-scheduled and was then interviewed, first by the Registrar and the Deputy Registrar, and then by the President of the ITLOS and the Registrar.

9. On 12 March 2018, the Registrar announced the ITLOS decision that none of the candidates would be selected for the position and that it would be re-advertised. On 12 April 2018, Mr. Savadago sought a review of this decision but this request was rejected on 11 May 2018 because it was said to be time-barred.

10. On 1 June 2018, the same P-5 Head of Legal Office/Senior Legal Officer position was re-advertised. Mr. Savadago again applied and was again shortlisted but not selected after a written test and interview. His treatment in the re-advertised process is the subject of separate legal proceedings that underlie his application for execution but does not affect the issues in his appeal.

⁴ Two of the shortlisted candidates later withdrew, leaving four shortlisted candidates.

⁵ JAB Decision, paras. 11, 13, 16-17.

11. Mr. Savadogo complained to the ITLOS Conciliation Committee on 8 June about the 12 March 2018 ITLOS decision but attempts at conciliation were unsuccessful. On 3 May 2019, Mr. Savadogo filed his appeal with the JAB. On 25 May 2020, the JAB issued its report upholding the decision to terminate the recruitment process and to re-advertise the vacancy.⁶ The JAB's report, which took the form of a recommendation to the Registrar, proposed that the Registrar decline Mr. Savadogo's appeal. The Registrar adopted this recommendation and issued a final decision on 3 June 2020.

12. By Judgment 2021-UNAT-1123, the UNAT declined to receive Mr. Savadogo's appeal against the decision of the Registrar dismissing his claims arising from the termination of the recruitment process and re-advertisement of the post. The UNAT could not and did not consider the merits of Mr. Savadogo's appeal, because "the JAB issues a *recommendation* and the *Registrar* takes the decision" meaning, "the ultimate decision-maker is the same person who has issued the contested administrative decision".⁷ Thus, the UNAT remanded Mr. Savadogo's case to the JAB to "ensure that [Mr. Savadogo's] case is dealt with in a manner that produces a written decision from a neutral first-instance process as required by the UN-ITLOS Agreement and Article 2(10) of the Statute of the United Nations Appeals Tribunal".⁸ Mr. Savadogo's case was not alone in that fate at that time: a number of other appeals with similar fundamental jurisdictional flaws were considered and remanded for re-decision by statutorily-compliant neutral decision-making bodies.⁹

13. The ITLOS subsequently amended Staff Regulation 11.2(l) of the Staff Regulations of the Tribunal to provide that the JAB would henceforth "adopt a report with its decision" as opposed to providing merely a recommendation, and that this decision could be challenged by either the Registrar or the applicant directly to the UNAT. Acting under the revised relevant Staff Regulation, the JAB (with a panel constituted of the same persons as had provided the prior recommendatory report to the Registrar) decided Mr. Savadogo's case on 5 November 2021,

⁶ International Tribunal for the Law of the Sea, Joint Appeals Board, Case No. ITLOS/JAB/2019/6, Report adopted on 25 May 2020.

⁷ *Louis Savadogo v. Registrar of the International Tribunal for the Law of the Sea*, Judgment No. 2021-UNAT-1123, para. 26 (emphases in original).

⁸ *Ibid.*, para. 2.

⁹ See, e.g., *Mary Margaret Fogarty, et al., v. Secretary-General of the United Nations*, Judgment No. 2021-UNAT-1148; *Webster v. Secretary-General of the International Seabed Authority*, Judgment No. 2020-UNAT-983; *Spinardi v. Secretary-General of the International Maritime Organization*, Judgment No. 2019-UNAT-957.

reaching the same result as it had previously recommended and relying on materially-identical reasoning. It is this JAB Decision which is the subject of Mr. Savadogo's appeal before us.

The Reasons for the JAB Decision

14. In summary, the ITLOS JAB reached its Decision dismissing Mr. Savadogo's application on the following grounds. First, it found that on 6 October 2017, the ITLOS decided to amend its Administrative Instruction ITLOS/AI/2017/05 (Procedure for the selection of candidates for vacant posts) (AI and AI/2017/05, respectively) so that the recommended shortlist of candidates would be put in alphabetical order rather than in a provisional order of priority.¹⁰ This change took effect after the vacancy was advertised and while the selection process was underway. The JAB found that the shortlist was prepared in the form of two groups of candidates, with candidates within each group listed in alphabetical order, rather than as the pre-amendment AI/2017/05 called for, a (presumably single) list in provisional order of priority. This change was the subject of Mr. Savadogo's objection in his initial requests to the Head of Personnel, which were rejected by the Registrar on 15 January 2018, but to which Mr. Savadogo does not appear to have filed a formal complaint. The JAB thus considered this outside the scope of its review.¹¹ Likewise, the JAB concluded that its scope of review did not include any challenge to the lawfulness of the amendment to AI/2017/05. It recorded Mr. Savadogo's statements to the effect that his "claims in relation to the provisional order of priority were 'background reading'".¹²

15. Next, the JAB considered whether Mr. Savadogo's claims relating to the criteria applicable to the written test and disclosure of information fell within the scope of his appeal. Mr. Savadogo had requested the JAB to direct disclosure of the shortlisted candidates' written test results and of a comparative matrix of the assessments made of the shortlisted candidates. The basis for these requests was said to be to ensure that procedural fairness had been respected in the comparative evaluation process. In essence these requests related to Mr. Savadogo's claim that the Tribunal's denial of this information to him amounted to a breach of his due process rights. The JAB concluded that these claims fell within the scope of Mr. Savadogo's case and were relevant to his ability to formulate and present his case to the JAB.¹³

¹⁰ JAB Decision, paras. 7-8.

¹¹ *Ibid.*, paras. 35-38.

¹² *Ibid.*, para. 38.

¹³ *Ibid.*, para. 46.

16. Next, the JAB considered Mr. Savadogo's claim that the decisions to cancel the selection exercise and to re-advertise the vacancy were arbitrary and unlawful. The JAB declined to accept that once a recruitment process had commenced, it could never be cancelled before its completion. If for no other reason, cancellation would be the appropriate way to deal with a situation in which no person was suitable for the post,¹⁴ or to address any irregularities that had occurred in the course of the recruitment process or if the Tribunal's circumstances changed in a way that affected the need for an appointment or the scope of the role. The JAB held that the cancellation in this case in fact favoured Mr. Savadogo who had scored third out of the four shortlisted candidates who sat the written test. He was thus thrown a metaphorical lifeline but in circumstances which, had there been no ability to cancel the process, would have probably ensured that he would not have been selected.¹⁵

17. The JAB considered what should have been the procedure in the event that no suitable candidate emerged from the selection process. Mr. Savadogo's argument was that there was no evidence to support the contention that none of the candidates was qualified for the post which was the reason given for the cancellation and subsequent recommencement of the recruitment procedure. The JAB considered that it was its role to examine whether the relevant rules and regulations had been followed and applied in a fair, transparent and non-discriminatory way. The JAB was not to substitute its decision for that of the ITLOS about whether the process ceased or carried on. It emphasized the Tribunal's "broad discretion" to make these choices.¹⁶

18. Turning to the procedure applied to this decision (to cancel and recommence the recruitment process), the JAB noted that such questions were not provided for expressly in the ITLOS Staff Rules and Regulations or in its Administrative Instructions. After conclusion of the interviews, the Registrar recommended to the ITLOS President that no candidate be selected and that the post be re-advertised. This recommendation was agreed to by the President and subsequently adopted by the Tribunal. Accordingly, the JAB considered that there was no procedural failing or breach in that decision-making.¹⁷

¹⁴ *Ibid.*, para. 51.

¹⁵ *Ibid.*, paras. 51-53.

¹⁶ *Ibid.*, paras. 56-58.

¹⁷ *Ibid.*, para. 60.

19. Considering whether the Registrar's decision was made fairly, transparently and in a non-discriminating manner, Mr. Savadogo submitted that it was unfair to alter the selection process once it was underway, what might be termed changing the rules of the game during the game. These changes were said to have been setting a threshold passing score for the written test where none existed previously, and by taking the written test and interview results into account but not the other qualification and experience criteria listed in the vacancy announcement. Mr. Savadogo claimed that he and the Registrar, who administered the recruitment process up to the point of recommendations to the ITLOS President, had long been in conflict with each other and that it was the Registrar's animosity that was behind the perversion of the rules during the process which disadvantaged Mr. Savadogo. In other words, the Registrar was so biased against Mr. Savadogo that this poisoned the Registrar's management of this process and that despite Mr. Savadogo being the most suitable candidate, his selection was frustrated unlawfully.

20. Mr. Savadogo also claimed that the relevant consideration of his professional skills, particularly of legal analysis, was completely disregarded in favour solely of his performance in the written test and the interview, so that relevant considerations were ignored improperly.

21. The JAB declined to substitute its opinion for that of the ITLOS in weighing different factors in the recruitment and appointment process. Despite noting that AI/2017/05 referred to the objective criteria to be applied during the shortlisting stage of the recruitment process, it held that it was within the Tribunal's discretion as to how it took into account the criteria in the vacancy announcement. These included the provision of a written test (conducted fairly, transparently and in a non-discriminatory manner) and that it was reasonable for candidates' skills to be evaluated thereby.

22. Addressing Mr. Savadogo's claims of bias and animosity towards him by the Registrar, the JAB concluded that by outsourcing candidate testing and its evaluation to external examiners, together with revealing to Mr. Savadogo the evaluation of his test results and a redacted summary of the results of other candidates, the ITLOS established that it had given Mr. Savadogo's application full and fair consideration. It was significant that the Registrar had no involvement in the administration or analysis of Mr. Savadogo's written test: this established the objectivity of that part of the recruitment process.¹⁸

¹⁸ *Ibid.*, para. 70.

23. The JAB held that Mr. Savadogo had not, by clear and convincing evidence, established a sufficient case to rebut the presumption of regularity (lawfulness) of the ITLOS' administrative actions. In particular, he had not established by evidence that the selection criteria were changed, or that the weighing of those criteria was manipulated, so as to prevent his selection. There was no evidence that this selection procedure was carried out any differently from previous similar exercises.

24. Addressing Mr. Savadogo's claim that his skills had been completely disregarded by reliance solely on the written test and interview, the JAB noted that the AI specified these two elements as being the material on which the Registrar's recommendation was to be made to the ITLOS President. That the Registrar did so in conformity with the AI not only did not support the contention that this was a deliberate strategy to frustrate Mr. Savadogo's candidacy but also confirmed adherence to the required procedure by the Registrar. The written test may also have been considered a tool to evaluate legal analysis and other skills, and the evidence showed that Mr. Savadogo's academic and professional experience and language skills were in fact evaluated and compared to those of others as part of the interview process.¹⁹

25. The JAB likewise rejected Mr. Savadogo's contention that there was no evidence to support the conclusion that no candidate was sufficiently qualified for appointment to the post so that the process should be cancelled. The Registrar's report to the President dated 1 March 2018 summarised the results of the interviews and written tests. While not revealing the weighting given to the various elements, it did confirm that these were evaluated and compared. In these circumstances, the JAB concluded that it would not substitute its opinion for that of the Registrar and the President. It concluded that it had not been shown that Mr. Savadogo's application did not receive full and fair consideration absent discrimination and bias.

26. Turning to the challenge to adherence to due process (i.e., the refusal to provide him with information essential to the exercise of his rights), the JAB identified this information as his test results and a comparative matrix of the overall results of the shortlisted candidates including the weightings and scores assigned to each. The JAB noted that Mr. Savadogo had received the Registrar's 1 March 2018 memorandum to the President summarising the results of the interviews and the written tests of all shortlisted candidates, albeit appropriately anonymised in the cases of the other three. Despite an absence of disclosure of all test scores, the JAB considered that it had

¹⁹ *Ibid.*, para. 73.

sufficient information to satisfy itself that Mr. Savadogo's candidacy was given fair consideration and that his rights of procedural fairness were respected in the process.²⁰

27. Addressing Mr. Savadogo's complaint that he should have been given this information earlier than he was provided it at the direction of the JAB, and that this failure or refusal amounted to a breach of his fair process rights, the JAB concluded that there was an absence of evidence that he had been discriminated against. In these circumstances, and with one exception, the ITLOS' failure or refusal to provide him with the information he sought did not constitute a breach of its due process obligations towards him. That exception was the failure to provide him with the test results which could, had they been provided earlier, possibly have satisfied Mr. Savadogo that he had not been discriminated against and enabled him to avoid the current litigation. The JAB was, nevertheless, satisfied that the information furnished in due course, did not identify any discrimination so that there was no due process violation.²¹

28. In summary, the JAB concluded that the Registrar's decision to cancel the recruitment process was lawful. This included conclusions that the ITLOS had not changed the rules in the course of the process, and that there were no violations of Mr. Savadogo's due process rights. His application was rejected entirely.²²

New Documents

29. As part of his appeal, Mr. Savadogo requested to have several documents disclosed to him and admitted for consideration by the UNAT. Those steps are recorded in a set of Orders²³ and we will not repeat their detail here. Suffice to say that we are grateful to the parties for having complied with the tight timetable for the disclosure and provision of these relevant documents and for their submissions on them. This has enabled us to obtain a clearer picture of the appointment process and to determine the appeal challenging the Respondent's decision to cancel the recruitment exercise and to re-advertise the post.

²⁰ *Ibid.*, paras. 76-77.

²¹ *Ibid.*, para. 79.

²² *Ibid.*, para. 80-81.

²³ *Louis Savadogo v. International Tribunal for the Law of the Sea*, Order No. 500 (2022); *Louis Savadogo v. International Tribunal for the Law of the Sea*, Order No. 509 (2023).

Submissions

Mr. Savadogo's Appeal (Case No. 2022-1664)

30. Mr. Savadogo submits that the JAB erred on questions of fact and law by failing to acknowledge and remedy the unlawful treatment of him by the Registrar, following the Registrar's misapplication of recruitment rules, regulations and administrative instructions, and generally established principles of law. Mr. Savadogo also submits that the Respondent failed to comply with the UNAT's directive with respect to the JAB's reconsideration of his case on remand.

31. First, with regard to procedural unfairness, Mr. Savadogo suggests that the ITLOS should have established a new JAB panel with different members or explored the option of using the United Nations Dispute Tribunal, in order to comply with the Appeals Tribunal's directive in the 2021 UNAT Judgment that his claims "should be reconsidered and decided by a neutral first instance process".

32. Mr. Savadogo emphasises that the JAB panel that issued the impugned JAB Decision was composed of the same members as the original JAB panel. He complains that he was informed of the panel composition at the last minute and was not given an opportunity to comment despite his raising concerns about the issue of panel composition. Mr. Savadogo says that it is reasonable to assume that the same panel who sat on his case in May 2020 was not suitable to reconsider his case as a neutral first instance process. He submits that this amounts to procedural unfairness and denial of justice.

33. Mr. Savadogo also points out that the impugned JAB Decision is identical (except for a few additional paragraphs) to the JAB report that was issued on 25 May 2020, which was the subject of the 2021 UNAT Judgment and remand. He takes the view that this too amounts to a further violation of procedural unfairness because the JAB failed to reconsider the appeal as a neutral first instance body.

34. On the merits, Mr. Savadogo submits that he has identified several breaches of applicable ITLOS Staff Regulations and Rules, and instead of rectifying these breaches, the JAB Decision upholds them and thereby perpetuates unfairness towards him.

35. Mr. Savadogo argues that the JAB wrongfully found that he had abandoned his claim that the presentation of shortlisted candidates should have been by priority order and not alphabetical order. He submits that he could not lodge a complaint against the Registrar's decision of his request to suspend the recruitment procedure due to the shortlisting because there was no administrative decision with direct legal consequence for him.

36. Mr. Savadogo argues that the JAB committed an error of fact when it found that he had failed to produce evidence that the rules governing the selection process for the P-5 Head of Legal Office post were modified after the selection had started. He states he had indeed pointed out irregularities in the process, particularly that Respondent had changed the presentation of the shortlisted candidates from priority order to alphabetical order in contravention of the applicable Administrative Instruction (AI/2017/05). Moreover, contrary to the finding in the JAB Decision, he asserts that he had provided documentation showing that the ITLOS had presented two lists of candidates in alphabetical order, which was a departure from Paragraph 10 of AI/2017/05.

37. Next, Mr. Savadogo argues that the JAB committed an error of law when it found that he was fairly considered for the post. He does not dispute that the ITLOS enjoys a large measure of discretion in selection matters and can treat the written test as an important element. However, Mr. Savadogo submits that the "shortlist of candidates in a provisional order of priority" is to be made on the basis of objective criteria in the vacancy announcement, namely advanced degree in international law with specialisation in law of the sea, experience, and legal analysis, research and writing. Mr. Savadogo contends that had these objective criteria been considered, he would have ranked first. He requests that the ITLOS provide the list of candidates in order of priority.

38. Mr. Savadogo claims that the Registrar failed to provide any reasoning why none of the candidates was selected for the post, which is in conflict with the Appeals Tribunal's decision in *Jafari*,²⁴ requiring that administrative decisions "must be sufficiently clear, precise, and intelligible".

²⁴ *Jafari v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees of the Near East*, Judgment No. 2019-UNAT-927, para. 35.

39. Mr. Savadogo submits that the JAB overlooked Paragraph 14 of AI/2017/05 which provides that: “The panel’s assessment of the tests and first interview is recorded in writing and is communicated to the President by the Registrar as part of his recommendation on the appointment”. He emphasises that this demonstrates that the written test is only “part” of the recommendation and submits that the other part of the recommendation is the “shortlist of candidates in a provisional order of priority”, which he contends is made on the basis of the objective criteria of the vacancy.

40. Mr. Savadogo submits that the Tribunal decision not to establish a priority list amounts to a modification of the rules after the competition exercise has already started, and thus violates the principle that the maker of a law must comply with it (sometimes expressed in the Latin maxim *tu patere legem quam ispse fecisti*).

41. Mr. Savadogo claims that the JAB erred in considering that the core issue of the priority list of candidates did not fall within the scope of its review, and further erred in dismissing the issue without due analysis. He argues that the ITLOS decision to bypass the priority list also renders unlawful the subsequent decision to re-advertise the vacancy.

42. Mr. Savadogo submits that the JAB committed an error of law by not examining the fact that the ITLOS neglected a key rule of the selection procedure, which is that all candidates needed to satisfy the criteria in the vacancy announcement. He claims that he was the only candidate who met all of these criteria, and thus the JAB erred in concluding that even if the recruitment had not been cancelled, he would not have been the chosen candidate because he scored third on the written test. The Appellant requests that the Appeals Tribunal order the ITLOS to produce evidence regarding the qualifications of the other candidates.

43. Mr. Savadogo draws the Appeals Tribunal’s attention to a decision rendered by the former United Nations Administrative Tribunal, *Lopes Braga*,²⁵ which emphasises that the failure of an organization to apply objective criteria of evaluation in a consistent manner is a violation of a candidate’s right to be fully and fairly considered.

44. Mr. Savadogo states that it is unclear how the JAB could endorse the Registrar’s decision to cancel the recruitment exercise on the grounds that all the candidates were unsuitable, given that the Appellant and at least two other candidates passed the written

²⁵ UNaDT Judgment No. 1122, *Lopes Braga* (2003).

test. Mr. Savadogo implies that the JAB endorsed the placement of undue emphasis on the written test results. He further contests that there was any ITLOS practice of a minimum score requirement for the written test. In any event, a “practice” cannot override binding staff rules, regulations and administrative instructions. Further, he submits that internal unpublished procedures create unfairness for candidates like him.

45. Mr. Savadogo submits that nothing in AI/2017/05 permits the Registrar to cancel a selection process if he is not satisfied with the outcome of the written test. He argues that the JAB erred in concluding that cancellation of a recruitment process is inherent within the selection procedure. He argues that the Registrar’s decision amounted to an abuse of discretion because it was not supported by any legal basis and was made in an arbitrary manner.

46. Mr. Savadogo submits that the JAB failed to recognise that the Registrar was biased against him. He notes that prior to the selection procedure, he asked the Registrar for clarification on which criteria would be taken into account in the final decision, thus showing a reasonable apprehension of bias. The Appellant claims that the selection panel’s impartiality was compromised, as the former Registrar had a long history of animosity towards him.

47. Next, the Appellant submits that the JAB erred by not requesting the disclosure of a comparative matrix of the overall results of the shortlisted candidates in order to ensure that procedural fairness had been duly respected. He argues that the failure to call for and have produced such information contravenes ST/AI/2006/Rev. 1, which provides for a “reasoned and documented record of the evaluation of [the] candidates against the requirements and competencies set out in the vacancy announcement”. Mr. Savadogo argues that it is not enough to say that all the criteria were considered: the ITLOS must submit evidence to show that a reasoned decision was made. He also submits that he was denied the right to be heard, because he did not have access to the documents underlying the decision.

48. Based on the foregoing, the Appellant submits that his candidature was not given full and fair consideration because the Registrar gave exclusive importance to the written test. He relies on the judgment in *Finniss*,²⁶ in which the Dispute Tribunal observed “the overall

²⁶ *Finniss v. Secretary-General of the United Nations*, Judgment No. UNDT/2011/060, para. 91.

impression is that what mattered to the [Registrar] was not so much an exercise in identifying the best candidate but an exercise in jettisoning the Applicant overboard”.

49. The Appellant submits that he is entitled to compensation because he had a very high likelihood of being selected for the post had his candidacy been properly considered. He notes that he was the only candidate to meet the criteria of the vacancy; he had served in the post for more than twenty years without any promotion; he had excellent or very good evaluations; he was twice on the final list of recommended candidates; and he had been in charge of the ITLOS Legal Office from 2011 to 2012. Since there was no evidence to support the conclusion that none of the candidates was qualified for the post such that the recruitment process needed to be cancelled, the Appellant submits that a breach of “full and fair consideration” is established.

50. Mr. Savadogo also requests that the Appeals Tribunal consider that this case has been pending for four years, which amounts to an excessive delay, and this should be factored into the compensation award. He says that his non-selection severely affected his professional reputation and caused him emotional distress.

51. Mr. Savadogo requests that the Appeals Tribunal reverse the JAB Decision, and award him equitable compensation in the amount of the salary and benefits between Appellant’s grade and the advertised P-5 post since the date the recruitment process was cancelled. Additionally, he claims an award of moral damages for emotional distress and damage to his reputation, which was compounded through the inordinate delays in this case.

The Registrar’s Answer to the Appeal

52. The Registrar disputes Mr. Savadogo’s allegations regarding the procedure following Judgment No. 2021-UNAT-1123 and the remand of his case. The Registrar argues that the Appellant’s claims that the JAB panel should have been composed of different individuals than heard his case initially, and that the JAB erred in adopting the prior JAB recommendation as its own formal decision, are inadmissible. The Registrar submits that the conduct of the JAB does not fall within the Appeals Tribunal’s competence in law.

53. The Registrar points the Appeals Tribunal to the amendments made to ITLOS Staff Regulation 11.2(l)(iii) which now provide that the JAB is to “adopt a report with its decision” rather than make a recommendation, as previously.

54. The Registrar further notes that the Appeals Tribunal did not require Mr. Savadogo's case to be heard by a different panel on remand, which it could well have done under Article 2(6) of the Appeals Tribunal Statute. Moreover, in Judgment No. 2021-UNAT-1123, the Appeals Tribunal did not examine the merits of the JAB's recommendation, and thus there was no reason that once the jurisdictional issue was remedied, that the JAB upon convening again, should have come to a different conclusion on the merits.

55. The Registrar submits that, in the main, Mr. Savadogo has merely repeated the arguments he submitted before the JAB, and that it is not sufficient on appeal for him simply to state that he disagrees with the outcome of the case. The Appellant must identify where the JAB made errors of fact or law, exceeded its jurisdiction or competence, or failed to exercise its jurisdiction. The Respondent submits that the Appellant's arguments should only be admissible to the extent that he identifies a precise error of law or fact by the JAB.

56. The Registrar argues that many of Mr. Savadogo's claims are inadmissible. Mr. Savadogo argues that the JAB erred in ignoring his claims regarding the "provisional order of priority within the shortlist of candidates". The Registrar submits that this claim is inadmissible because, as the JAB found, Mr. Savadogo dropped this issue after receiving a decision on administrative review and did not lodge a further complaint as required by the ITLOS Staff Regulations. The Registrar emphasises that the JAB stated that Mr. Savadogo referred to these claims as "background reading" and addressed them only to a limited extent in his application. Accordingly, the Registrar maintains that these claims are inadmissible.

57. Should the Appeals Tribunal review this claim, the Registrar submits that in fact the candidates were shortlisted in "order of priority" (candidates were placed in two groups of priority) which accords with Paragraph 10 of AI/2017/05. Thus, there was no breach of the relevant rules. The Registrar notes that Paragraph 10 does not specify how the order of priority should be established.

58. The Registrar requests that the Appeals Tribunal reject Appellant's request to disclose documents showing how candidates were classified in order of priority. The Registrar says that not only is this claim inadmissible, but that the shortlist procedure was carried out within applicable rules.

59. The Registrar submits that Mr. Savadogo's arguments about the other candidates' lack of qualifications is a new claim that has not been previously raised, and should accordingly be dismissed, and no evidence on this point should be produced.

60. The Registrar argues that Mr. Savadogo's claim that the Registrar did not give any reasons for her decision is also a new argument that was not made before the JAB and is therefore inadmissible. In any event, the Registrar informed Mr. Savadogo that the reason to cancel the recruitment procedure was that, following a thorough and final review of the candidates, none was selected.

61. The Registrar objects to the "self-serving" representations of Mr. Savadogo that he would have been the selected candidate if the recruitment procedures had been properly followed. The Registrar also disputes several statements made by Mr. Savadogo with regard to his career history, noting that he was not in charge of the Legal Office for over 10 years: there was no such role until 2013. The Registrar also notes that the Appellant's lack of career progression relates to the fact that the ITLOS is a small organization of only 38 staff, and the Appellant was already at a high-level position (P-4) with very little room for career growth.

62. The Registrar submits that the JAB did not err in finding that it has showed that Mr. Savadogo was given full and fair consideration; that it was within the discretion of the Registrar to take the vacancy announcement requirements into account at the short-listing stage; and that the JAB would not substitute its judgment for that of the Registrar in deciding how to weigh different factors in the recruitment procedure.

63. The Registrar agrees with the JAB that it would be unreasonable to find that a recruitment process once started could never be cancelled, because otherwise the ITLOS would have been forced to hire a candidate that did not meet its requirements.

64. The Registrar further adopts the JAB's finding that the correct procedures were followed, including that pursuant to Paragraph 17 of AI/2017/05, the Registrar was required to make her recommendation to the ITLOS on the basis of the results of the written test and interviews. The 1 March 2018 memorandum from the Registrar to the President of the Tribunal clearly indicated that the candidates' academic experience, professional experience and language skills were evaluated as part of the interview process.

65. The Registrar also agrees with the JAB that cancelling the recruitment exercise was actually in Mr. Savadogo's favour because he came in third out of four candidates on the written test, and had the recruitment procedure gone forward, it is likely another candidate would have been selected. The claim that the Appellant had a "legitimate expectation of being selected" is thus unfounded.

66. The Respondent submits the JAB did not err in finding no evidence of bias by the Registrar. The Registrar notes that the JAB highlighted that the evaluation of the test was outsourced to external examiners. The Registrar also draws attention to Judgment No. 2016-UNAT-642 which considered the relationship between the Appellant and the Registrar in the context of an earlier recruitment procedure (for the same Head of Legal Office post) and noted that their "correspondence demonstrated numerous differences of opinion between them, [but] did not show hostility from either side".²⁷

67. The Respondent maintains that there was no error in the JAB's finding that the 1 March 2018 memorandum from the Registrar to the President of the Tribunal, which summarised the results of the interviews and written tests (redacted to protect the personal data of the other candidates), was sufficient information for Mr. Savadogo to ensure procedural fairness.

68. The Registrar requests that the appeal, including all pleas and requests for compensation, should be dismissed in their entirety.

Mr. Savadogo's Application for Execution of Judgment (Case No. 2022-1707)

69. The Applicant (Mr. Savadogo) has submitted an application for execution of Judgment No. 2022-UNAT-1189, in which the UNAT remanded the Applicant's challenge to his non-selection for the P-5 Head of Legal Office post on the grounds that the JAB report in that case was not that of a neutral first instance process as required by Article 2(10) of the Appeals Tribunal Statute.

²⁷ *Savadogo v. Registrar of the International Tribunal for the Law of the Sea*, Judgment No. 2016-UNAT-642, para. 53.

70. The Applicant notes that Judgment No. 2022-UNAT-1189 was issued on 5 April 2022, yet the ITLOS JAB has not yet taken up the remand of his case. The Applicant requests that the Appeals Tribunal order execution of the latter Judgment, so that the JAB takes prompt action regarding his appeal in that case.

71. Mr. Savadogo argues that the JAB's proffered reason for waiting to act on this remanded case, that it would entail "a waste of both human as well as financial resources ... without knowing whether [the amended Staff Regulations of the Tribunal] meet the UNAT's requirements", amounts to a violation of the Applicant's right of access to justice and his due process rights.

72. He also submits that the possibility of wasting human and financial resources could have been avoided had ITLOS adopted a more comprehensive reform, for example, allowing staff to access the United Nations Dispute Tribunal, which he claims was the unanimous request of ITLOS staff. The Applicant also offers his view that the amendment of the ITLOS Staff Regulations and Rules which consisted of replacing the phrase "recommendation of JAB" with "decision" does not ensure neutrality and fairness of the JAB.

73. The Applicant also considers that the remands of his cases should be heard by newly composed JAB panels, rather than the original panel.

74. He submits that the "malfunctioning" of the ITLOS internal appeal bodies should not burden his due process rights nor prejudice his access to justice. The Applicant argues that asking him to wait until the Appeals Tribunal renders judgment in Case No. 2022-1664 (the appeal under review in this Judgment) is unlawful and prejudicial to his rights.

75. If the Appeals Tribunal declines to order the JAB to consider his remanded case promptly, the Applicant requests that he be able to submit his case directly to the Appeals Tribunal.

The Registrar's Answer to the Application for Execution of Judgment

76. The Registrar requests that the Appeals Tribunal reject the application as not receivable.

77. The Registrar first notes that the application does not comply with Article 27 of the Appeals Tribunal Rules of Procedure (Rules), because it exceeds two pages in length.

78. On the merits, the Registrar argues that the application does not meet the prerequisites of an order of execution pursuant to Article 11(4) of the Appeals Tribunal Statute and Article 27 of the Rules because the Appeals Tribunal has made clear that a successful application for execution requires the existence of an “executable judgment”, referencing *Ocokoru*.²⁸ There is no “executable judgment” at this time because the UNAT has merely ordered that the case be remanded.

79. The Respondent argues that the Applicant is seeking to obtain remedies beyond the purpose of the application for execution, namely, to contest the decision of the JAB chair, which is not appropriate, as noted in *Amal Belkhabbaz*.²⁹

80. The Registrar submits that the JAB has acted within its discretion to deal with the Applicant’s remanded case at a later stage. The Registrar points to Appeals Tribunal jurisprudence to the effect that “the UNDT is in the best position to decide what is appropriate for the fair and expeditious disposal of a case and to do justice to the parties” and that the Appeals Tribunal “will not lightly interfere with the broad discretion of the UNDT in the management of cases”.³⁰ The Respondent argues that likewise, the timing and management of addressing remanded cases is within the discretion of the JAB.

81. The Respondent further submits that the Applicant’s allegations about the amendments that were made to the ITLOS system of staff appeals are irrelevant and misplaced in the context of an application for execution. The Registrar disputes the Applicant’s characterisation of the amendments, as well as the Applicant’s representation of the views of ITLOS staff.

²⁸ *Ocokoru v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-826, para. 10

²⁹ *Amal Belkhabbaz v. Secretary-General of the United Nations*, Judgment No. 2020-UNAT-1027, para. 16.

³⁰ *Lebouef et al. v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-354, para. 8.

Considerations

Decision – Appeal against the cancellation of the recruitment exercise

82. As may be seen from the summaries of argument for and against the appeal, there are numerous grounds advanced by Mr. Savadogo and an equally robust and detailed support of the JAB Decision by the Registrar.

83. As to the Appellant's arguments about the lawfulness of the composition of the JAB and the almost identical repetition in the JAB Decision of its earlier recommendation of 25 May 2020, we do not find Appellant's arguments persuasive. The JAB was entitled to appoint whom it wished to its decision-making body so long as that body and those persons met the statutory requirements of Article 2(10) of the UNAT Statute. While it may have been open to the ITLOS to have considered using the United Nations Dispute Tribunal for resolution of staff disputes, it was free not to do so and cannot be criticised for doing as it did.

84. Addressing the form of the JAB Decision, although it may now seem predictable that an almost word-for-word repetition by the JAB of its earlier recommendation would attract Mr. Savadogo's criticism, the Decision met the statutory criteria of nature and form. There is nothing in Mr. Savadogo's criticisms in this regard.

85. The changes to the shortlisting practice in the midst of the recruitment process give us more cause for concern. The recruitment procedure for this appointment was governed by AI/2017/05 which was formally amended by the ITLOS in the course of the contested recruitment. Mr. Savadogo (and indeed other applicants) were entitled to expect that the rules of the game would not be changed mid-match as it were, unless this was expressly provided for. A recruitment that began under one specified process should have continued under that process. Where, as here, the amended AI specified that it would enter into force as of 20 November 2017 (the date of its issuance) which fell during the selection process, we understand that to mean that only new recruitments that commenced after that date would use the changed procedures. To have substituted the required single order of priority list ranking shortlisted candidates with multiple lists as the ITLOS purported to do under its amended procedure, was wrong.

86. We cannot, however, discern what difference this change may have made to Mr. Savadogo's candidacy, because even if it had disadvantaged his prospects, this was disrupted and frustrated by the Tribunal's decision to cancel the recruitment altogether. Mr. Savadogo was a shortlisted candidate, in the higher Group No. 1, and there is no evidence that being listed alphabetically on one of two shortlists rather than in a single list ranked by priority, affected him disadvantageously. Although it may not have been appreciated as such at the time and even now the Registrar does not concede error on its part, a flawed recruitment process is one of the recognised grounds for cancelling the recruitment³¹ and starting again correctly as the ITLOS did, albeit for other reasons. This ground of appeal, while technically successful in itself, does not further assist the Appellant in having the case decided in his favour.

87. Addressing the next ground of appeal, the alleged misapplication of the advertised and relevant attributes of candidates, we accept that generally the ITLOS can be expected to adhere to the recruitment scheme it has promulgated and advertised as a matter of unbiased consideration of the attributes of all candidates. Even if, as Mr. Savadogo asserts but about which there is some doubt, he should have been ranked first, it was nevertheless open to the ITLOS, on good objective grounds, to conclude that no candidate made the grade for appointment.³² In these circumstances it was open to the Tribunal to appoint no one, to cancel that process and to subsequently recommence it *ab initio* in the hope of attracting better candidates than those who had previously applied. The JAB concluded, correctly, that having begun the recruitment process, the ITLOS was not bound to conclude it by appointing someone, even the best candidate among them, if it considered that person would not fulfill its expectations of the holder of that role. The JAB Decision was consistent with our jurisprudence that "the Administration is not obliged to pursue or complete a recruitment process once

³¹ See, e.g., *Giuseppe Belsito v. Secretary-General of the United Nations*, Judgment No. 2022-UNAT-1250, para. 37 (holding that "[i]t is within the discretionary authority of the Administration to cancel a recruitment procedure on rational grounds on account of irregularities occurring in the recruitment process").

³² Indeed, in a confidential memorandum from the Registrar to the President of the Tribunal, the Registrar noted that two candidates (including Mr. Savadogo) scored 50 percent or less on the written test; whereas the other two candidates scored in the 58-63 per cent range, which was a "barely satisfactory result". Thus, it was not surprising that the Registrar recommended, and the President agreed, to re-advertise the post.

begun” and the Administration “has a wide discretion to cancel a procedure for sound reasons and in the interest of the Organization”.³³

88. Next is the alleged bias of the Registrar against Mr. Savadogo. It seems that this allegation was made of the current Registrar’s predecessor in that office, although allegedly continued by the incumbent. We consider that the JAB was correct to identify as a contradictory indication of bias, the roles of the President and of the ITLOS itself in considering and approving (or not) the Registrar’s recommendations regarding the recruitment. It was not the Registrar who made the significant decisions in that process, although it is likely that the Registrar’s recommendations were influential on the President and the Tribunal. Indeed, Mr. Savadogo was interviewed by the President as well as by the Registrar.

89. It is important, also, in considering Mr. Savadogo’s serious allegation of bias by the Registrar against him that the written testing of applicants and the analysis of their results, was outsourced and so, *prima facie* at least, objective and unbiased. Both the written tests and the interviews of candidates played a significant part in the Tribunal’s decision-making.

90. For these reasons, Mr. Savadogo has not established that the JAB was wrong and that alleged bias by the Registrar meant that the decision to cancel the recruitment was unlawful and that he should be awarded compensation.

91. Next is Mr. Savadogo’s assertion of the unlawfulness of the Registrar’s cancellation of the recruitment and subsequent re-advertisement of the P-5 Head of Legal Office/Senior Legal Officer post. His complaint is not that someone else who was an inferior candidate was appointed, but rather that the absence of an appointment was unlawful (in breach of the applicable rules and tainted by bias) and shows that he was denied full and fair consideration. For the reasons just given, we do not accept this argument.

92. We should pause to address briefly the Respondent’s arguments of inadmissibility or unreceivability of contentions by Mr. Savadogo regarding the operations of the JAB. Mr. Savadogo can make these arguments, even if as in this case, they are unsuccessful on their merits. It is fundamental that a decision-maker or decision-making body possesses the jurisdiction or competence in law to do so and that these questions are judicially reviewable on

³³ *Alejandro Frederico Izurieta Canova v. Secretary-General of the United Nations*, Judgment No. 2022-UNAT-1252, para. 35.

the application of a staff member with a proper interest in them. The constitution of the decision-making body and its *modus operandi* are at the heart of these judicial checks on its authority. So too is its adherence to properly constituted rules and processes at the heart of the UNAT's function on appeal. We reject the Respondent's contentions that these issues are off-limits entirely.

93. For the reasons set out in relation to Mr. Savadogo's appeal, we reject the Registrar's contention that it was entitled to change the process when it did, from the requirement to create a single list of candidates in priority order, to the creation of multiple lists of candidates in alphabetical order. In "order of priority" is not multiple alphabetical orders. We note the Registrar's explanation to Mr. Savadogo, in his decision of 15 January 2018, that the use of shortlists in alphabetical order was an established practice of the Tribunal that dated back to 2004, including being used when Mr. Savadogo originally applied to the Head of Legal Office position in 2013. The use of two priority groups of candidates had apparently been used for the shortlist for the Archivist post in 2014. Thus, without detracting from the wrongfulness of this practice, Mr. Savadogo's claim that this was an unusual development in this contested recruitment procedure that was aimed at him personally, is not persuasive.

94. For completeness, we accept that two of the Appellant's arguments on appeal were novel (that is they were not advanced before the JAB) and are thus inadmissible on this appeal. They are his contentions that all other candidates did not possess sufficient qualifications for appointment (indeed none was appointed in any event) and the challenge to the Registrar's lack of reasons for her recommendations to the Tribunal.

95. In any event, and as the documents belatedly produced as described above confirm, while the Respondent did not follow its proper stated procedure for ranking shortlisted candidates in a provisional order of priority, this in itself did not disadvantage the Appellant. The documents reveal that the ITLOS Committee on Staff and Administration prepared a report in which shortlisted candidates were put into two lists. The first list was of those with priority over those in the second list. However, candidates in each list were ordered alphabetically. Mr. Savadogo was in the first priority list but listed fourth alphabetically so that, in this sense, he was ranked first equally with three other candidates.

96. The Appellant progressed in the recruitment process and his candidature was addressed on its merits including by an external assessment of his (and others') tests. While Mr. Savadogo was ranked between the first and last of the shortlisted candidates so assessed (then on merit, not alphabetically) the ITLOS came to the conclusion that none of the candidates met its expectations so as to make an appointment. In these circumstances the ITLOS came to its decision, as we confirm it was entitled to, that it should seek fresh candidates by cancelling and re-advertising the post. Mr. Savadogo was an applicant again but that is the subject of the dispute underlying his application for execution, so we will reserve consideration of that until the appropriate time.

97. We deal briefly with Mr. Savadogo's additional submissions on the documents produced, although for the most part these are repetitive of arguments made earlier by him. The Appellant contends that none of the other shortlisted candidates was qualified educationally as he was and met that advertised prerequisite for the position. That submission tends to reinforce the decision to cancel the appointment process, although Mr. Savadogo goes on to submit that in these circumstances, he should have been appointed as he was the only candidate with the requisite educational qualifications. We do not agree. Meeting one of several or many standards that are to be weighed and judged collectively, being the only one who meets that one standard does not mean that appointment should follow indiscriminately.

98. Similarly, because Mr. Savadogo achieved a 50/100 grade for his written test does not mean that he also "passed" this test and so should have been appointed in the circumstances. It was open to the ITLOS to seek to appoint a candidate exhibiting more than an arithmetic score in one aspect of the selection process, albeit an important one. Other candidates scored higher, but they too were passed over in the decision to make no appointment. That was a decision within the competence of the ITLOS to make as it did, and it is not for the Appeals Tribunal to second-guess that decision on its merits once we are satisfied that the decision was made lawfully.

99. Finally, we wish to note that we should not be thought to be approving of the Respondent's formal change to the presentation of the shortlist in the midst of an appointment procedure entered into by the candidates in the reasonable expectation of compliance by the ITLOS with its known rules and procedures. While it is always open to the ITLOS to alter those by a constitutionally-sanctioned method, it is not helpful to mutual trust and confidence with

staff and those seeking to work for the Tribunal if the Respondent is seen, to use a sporting analogy, to change the rules of the game in the course of a match.

100. For the foregoing reasons, however, Mr. Savadogo's arguments of error by the JAB cannot succeed and his appeal must be dismissed.

Decision – Application for Execution of Judgment

101. Turning to the application for execution of our Judgment No. 2022-UNAT-1189 issued on 5 April 2022, we note that our directions therein were given more than a year ago and have apparently not been actioned by the ITLOS JAB.

102. We have been provided with written correspondence between counsel for Mr. Savadago and the Chairperson of the JAB. In essence this evidences Mr. Savadago's requests for the JAB to hear and decide his second challenge to his non-appointment following the re-advertisement of the Head of Legal Office/Senior Legal Officer post, and the JAB's declining to do so until the matter of its jurisdiction was settled by the Appeals Tribunal in the Judgment we issue today.

103. Unfortunately for Mr. Savadago, his first appeal did raise a contentious question of the JAB's jurisdiction which we accept constituted a ground for awaiting certainty. That was the question whether a tribunal constituted of the Registrar's appointee, a staff appointee and an independent chairperson and which decides cases by either unanimous or majority vote and which consisted of the same members that recommended the outcome of Mr. Savadago's initial challenge to the Registrar's decision, constitutes "a neutral first instance process" under Article 2(10) of the UNAT's Statute. By this Judgment, we confirm that the amendments to the Staff Regulations of the Tribunal satisfy the requirements for a neutral first instance process. Our decision here is in accordance with our judgment in *Ajay Sud*,³⁴ in which we affirmed that changes to regulations which provide that the JAB issues a "decision" rather than a "recommendation" conforms to the requirements of the Appeals Tribunal Statute. Accordingly, as that issue has now been decided, the JAB's grounds for awaiting jurisdictional certainty no longer exist.

104. The Registrar says, first, that Mr. Savadogo's application is not receiveable and must be dismissed. First, she argues that because his application occupied effectively three pages, it exceeds the limit of two pages prescribed by Article 27 of the UNAT's Rules of Procedure. This

³⁴ *Ajay Sud v. President of the International Fund for Agricultural Development*, Judgment No. 2022-UNAT-1217, paras. 51-52.

unduly technical ground of appeal should not and will not determine Mr. Savadogo's application. We think it best for all concerned to focus on the Registrar's other grounds in opposition.

105. The Registrar's second ground of opposition is of greater moment. She points out that Article 11(4) of the UNAT Statute permits an application such as this to be made where a judgment "...requires execution within a certain period of time and such execution has not been carried out (...)"

106. Our Judgment No. 2022-UNAT-1189 did not specify a date ("a certain period") for its execution and so, strictly, we cannot make the order now sought by Mr. Savadago. This conclusion alone is sufficient to enable us to dismiss Mr. Savadogo's application for execution. We will, nevertheless, consider the remaining ground advanced by the Registrar.

107. Third, the Registrar says that the latter Judgment was not executable in any event. We disagree. It was a statutory remand of the case for reconsideration and decision by the JAB. Judgments are not only executable against the parties to them, that is the staff member and the ITLOS. The statutory remedy of remand is directed to the tribunal appealed from, most often the UNDT but including other tribunals and decision makers that participate in the United Nations system of internal justice. While judgments are binding on the parties to them, adherence to them is not restricted to those parties. The UNAT's jurisdiction is supervisory of those bodies whose decisions come to it on appeals by the parties and, as in any system of hierarchical justice, those bodies are expected to act consistently with the UNAT's directions. We would reject this ground of challenge by the Registrar to the admissibility of Mr. Savadogo's application.

108. Returning to the Respondent's successful opposition to the application for execution, we comment as follows. Without attributing blame or censure, but as the Applicant says, this litigation has now dragged on for several years, he is approaching retirement from the ITLOS, and there needs to be finality of these matters for all concerned.

109. To achieve that finality, we make a direction that the ITLOS JAB is to decide Mr. Savadogo's case remanded to it in our Judgment No. 2022-UNAT-1189 within three calendar months of receipt by the parties and by the ITLOS JAB of this Judgment. To avoid any uncertainty about this direction, we direct the Registrar of the UNAT to provide the independent Chairperson of the ITLOS JAB (Mr. Thomas Laker) with a copy of this Judgment.

Judgment

110. Mr. Savadogo's appeal is dismissed, and the Decision ITLOS/JAB/2021/8 is affirmed. Mr. Savadogo's Application for Execution of Judgment No. 2022-UNAT-1189 is dismissed. We direct that Judgment 2022-UNAT-1189 be complied with within the period of three calendar months of receipt of this Judgment by the parties hereto and by the ITLOS Joint Appeals Board.

Original and Authoritative Version: English

Decision dated this 24th day of March 2023 in New York, United States.

(Signed)

Judge Colgan, Presiding

(Signed)

Judge Raikos

(Signed)

Judge Halfeld

Judgment published and entered in the Register on this 2nd day of May 2023 in New York, United States.

(Signed)

Juliet Johnson, Registrar