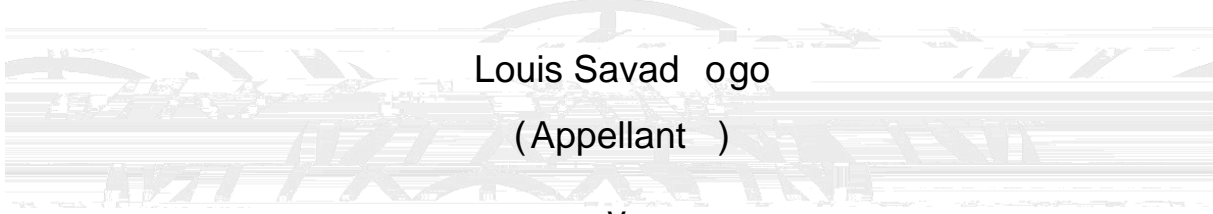




UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D 'APPEL DES NATIONS UNIES

Judgment No. 2022-UNAT-1189



Louis Savadogo
(Appellant)

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 No.:	2021-1537
Date:	18 March 2022
Registrar:	Weicheng Lin

Counsel for Appellant: Ludovica Moro

Counsel for Respondent: Ximena Hinrichs Oyarce

JUDGE GRAEME COLGAN , PRESIDING .

1. For the reasons set out below, we consider that we are without jurisdiction under Article 2(10) of the United Nations Appeals Tribunal Statute to determine the merits of Mr. Savadogo's appeal. We remit the case to the Joint Appeals Board (JAB) of the International Tribunal for the Law of the Sea (ITLOS or Agency) for decision by the JAB as a neutral decision-maker and as now constituted pursuant to Article XI of the ITLOS Staff Regulations as adopted with effect from 13.08.01.

5. This procedure followed the ITLOS' Staff Regulations that were in force at the relevant times. Regulation 11.2 provided for the establishment of a JAB. Regulation 11.2(m) addressed appeals to the UNAT with the opening words: "If the applicant does not agree with the decision of the Registrar or if the Registrar has not taken a decision on the recommendation within 14 days after receipt of the report, the applicant may submit an appeal to the United Nations Appeals Tribunal ..." The Regulation purported to be in compliance with the UNAT's Statute and with the Agreement entered into between the ITLOS and the United Nations in 2010 by which those parties agreed to the UNAT having final appellate jurisdiction in cases such as this.

6. Also relevant to this process, and consistent with Regulation 11.2, is Annex VI(10) to the ITLOS Regulations. It provided that following the JAB's consideration of a staff member's appeal, a report would be submitted to the Registrar and copied to the staff member. That report was to contain "the recommendations of the [JAB]". Annex VI(11) then provided that, within 14 days of receipt

THE UNITED NATIONS

the documented changes. Second, the Respondent who might have benefitted from such a legal fiction has argued adamantly in opposition to the appeal that the JAB's recommendation and her own acceptance of that and the decision were the lawful way of dealing with these

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be neutral, that is independent of the parties to the case. The Registrar of the ITLOS in this case was, as both employer and final decision-maker, not neutral.

19. As already noted, we understand that the ITLOS changed its relevant Regulations with prospective effect from 1 December 2021. The issue of the compliance of these new regulations with Article 2(10) of the UNAT Statute is not before us for decision, so it is not appropriate for this Tribunal, without an actual case before it and submissions made about that issue, to determine whether these new regulations would comply with the jurisdictional requirements under our Statute. As the recent full bench Judgment in *Confirms*, rule change is an exercise that must be taken by the ITLOS with the benefit of legal advice. It is not a function of the UNAT either to change regulations or to advise on how they should be changed. Their lawfulness may, potentially, arise for decision by the UNAT in another case. Nothing in this Judgment should be taken to determine either the lawfulness of the current regime for deciding appeals to the JAB or the merits of Mr. Savadogo's case or appeal.

20. The appeal is not receivable for jurisdictional reasons and so must be remitted to the JAB for decision by that body.

21. We wish to add the following observation for the benefit of other parties in a

THE UNITED N

Judgment

25. We decline to receive the appeal and remit the case to the JAB of the ITLOS for decision by the JAB as a neutral decision-maker.

Original and Authoritative Version: English

Dated this 18th day of March 2022.

Judge Colgan, Presiding
Auckland, New Zealand

Judge Raikos
Athens, Greece

Judge Halfeld
Juiz de Fora, Brazil

Entered in the Register on this 5th day of April 2022 in New York, United States.

Weicheng Lin, Registrar