

# **UNDT/2010/185, M'bra**

## **UNAT Held or UNDT Pronouncements**

The Respondent rested his case on the evidence of a witness on whom anonymity was conferred during the investigation and who was not called at the hearing. From the statements made by the witness during the investigation the Tribunal found that his/her testimony was fraught with irregularities and inconsistencies and could not be acted upon. The Tribunal also found that failure to call the witness for cross examination was a breach of the due process requirement. The Tribunal also held that when anonymity is conferred on a witness during the investigation, the Tribunal is not bound by this and if a party wishes the anonymity to subsist during the hearing an appropriate motion must be made before the Tribunal. The decision was found to be an abuse of discretionary authority and violated the Applicant's right to due process.

## **Decision Contested or Judgment/OrderAppealed**

Applicant filed an appeal challenging the decision of the Secretary-General to summarily dismiss him from MONUC on grounds of serious misconduct (allegations of soliciting, receiving and accepting money from vendors who did business with MONUC).

## **Legal Principle(s)**

N/A

## **Outcome**

Judgment entered for Applicant in full or in part

## **Outcome Extra Text**

Compensation was awarded.

## Full judgment

[Full judgment](#)

## Applicants/Appellants

M'bra

## Entity

MONUC

## Case Number(s)

UNDT/NBI/2009/52

## Tribunal

UNDT

## Registry

Nairobi

## Date of Judgement

18 Oct 2010

## Duty Judge

Judge Boolell

## Language of Judgment

English

French

## Issuance Type

## Judgment

### Categories/Subcategories

Burden of proof

Disciplinary matters / misconduct

Dismissal/separation

Evidence

Termination (of appointment)

Summary dismissal

### Applicable Law

Financial Regulations and Rules

- Regulation 4.2
- Rule 5.12

Other UN issuances (guidelines, policies etc.)

- OIOS Manual of Investigation Practices

Secretary-General's bulletins

- ST/SGB/2007/4
- ST/SGB/273

Staff Regulations

- Regulation 10.2

UNDT Statute

- Article 10.5(a)
- Article 10.5(b)